

4-600
STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

APJ

Margaret H. Wilson,

Petitioner,

v.

F.W.Bell, n/k/a Bell
Technologies, Inc.,

Respondent.

01 MAY -8 AM 9:17
EEOC Case No. 15D95103517
FCHR Case No. 95-2918
DOAH Case No. 97-4841 OM
FCHR Order No. 00-031116
TIP. BRINGS

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FINAL ORDER DISMISSING PETITION FOR RELIEF FROM AN UNLAWFUL
EMPLOYMENT PRACTICE

I. Panel of Commissioners

The following 3 Commissioners participated in the disposition of this matter:

Commissioner, Panel Chairperson: Aristides Sosa,
Commissioner Clarethea Brooks
Commissioner Keith Roberts

II. Appearances

For Petitioner: Butler and Hosch
Attn. Michelle Mason, Esq.
3185 S. Conway Rd.
Orlando, Florida 32812-7332

For Respondent: Janet M. Courtney, Esq.
Lowndes, Drosdick, Doster Kantor and
Reed, P.A.
215 North Eola Drive
Orlando, Florida 32802

III. Preliminary Matters

Petitioner filed a complaint of discrimination with this Commission, pursuant to F.S. Ch. 760, alleging Respondent knowingly committed an unlawful employment practice on the basis of age discrimination.

Public deliberations were held by the Commission on December 7, 2000.

The Judge's findings of fact are supported by competent substantial evidence. We adopt the Judge's findings of fact and agree that the Petitioner's case should be dismissed for failure to participate in the hearing, and in that regard the evidence is supported by competent substantial evidence.

IV. Conclusions of Law


We reject the Judge's conclusions of law, on timeliness issues on the authority of Joshua v. City of Gainesville, 768 So. Rep. 432 (Fla. 2000), decided by the Florida Supreme Court, and several administrative cases on the same issues. We reject the conclusions of law and the Respondent's request for attorney's fees. In finding that errors of law occurred, the Commission's conclusions are as, or more reasonable than the conclusions being corrected, and that attorney's fees are denied because no basis in fact is found for awarding them, since there is no computation in the order as to how the amount of the sanction was calculated, or any discussion of how it was reached. Therefore, it is impossible for the Commission to review the Judge's holding on the award of fees and costs. Moreover, in view of Petitioner's age (65) and erratic behavior, there is no competent substantial evidence to make a determination the allegation of willfulness and bad faith as found by the Judge. The Judge impose the maximum penalty against Petitioner when he awarded fees when he could have simply dismissed the case at an earlier point without imposing sanctions subsequent to the Remand Order by the Commission, if he was concerned about non-compliance with discovery matters, especially since Petitioner was representing herself. The award of the fees and costs is an abuse of the Judge's discretion for these reasons.

V. Dismissal

Petitioner's Petition For Relief is **DISMISSED** with prejudice.


Each party is advised of their right to petition the Florida District Court of Appeal for judicial review of this Final Agency Order. Such Notice of Appeal must be filed within 30 days of the date that this order is filed with the Clerk of the Commission. See Section 120.68, Florida Statutes, and the Florida Rules of Appellate Procedure, Rule 9.110, for the complete requirements and rules on the right to appeal, and the applicable procedure.

DONE AND ORDERED THIS DAY OF , 2001
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Aristides Sosa
Panel Chairperson;
Commissioner Clarethea Brooks
Commissioner Keith Robert Filed

Filed this 02 day of May, 2001,
in Tallahassee, Florida.


Azizi Coleman
Acting Clerk of the Commission

NOTICE TO COMPLAINANT/PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to the Miami District Office (EEOC), one Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

Butler and Hosch
Attn. Michelle Mason, Esq.
3185 S. Conway Rd.
Orlando, Florida 32812-7332

Janet M. Courtney, Esq.
Lowndes, Drosdick, Doster Kantor and
Reed, P.A.
215 North Eola Drive
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Miles A. Lance, Legal Advisor for the Commission Panel

Daniel Manry, Administrative Law Judge