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2000 JUN 30 P 2 36  
FILED  
ADMINISTRATIVE  
ADJUDICATIONS  
SECTION

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

Dexter V. Thomas

AP

DMK - CUS

EEOC Case No.: 15D951105  
FCHR Case No: 95-2825  
DOAH Case No.: 99-0507  
FCHR Order No: 01-032

Petitioner,

School Board of Orange County

Respondent.

\_\_\_\_\_ /

FINAL ORDER DISMISSING REQUEST FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Petitioner filed a complaint of discrimination claiming he was discriminated against because of his gender. A hearing was held, and a transcript was made, but not filed. No exceptions could be properly filed, and none were found in the file. The Judge found for the Respondent on the merits because there was no evidence of discrimination, and recommended dismissal of the Petition. He also recommended an Order of Dismissal on the law since Petitioner's request for an administrative hearing was untimely because Petitioner failed to request an administrative hearing within 35 days after the Commission's failure to issue a determination regarding Petitioner's Charge of Discrimination within 180 days of the charge being filed, citing, Sections 760.11(4),(6),and(8), Florida Statutes.

The Judge's holding on the law was improper because the Florida Supreme Court has overruled Milano v. Moldmaster, 703 So. 2d 1093(Fla. 4th DCA 1997), by its decision in Joshua v. City of Gainesville, 768 So. 2d 432( Fla. Supreme Ct. 2000), and the Commission has consistently held that where the Commission never issues a finding of reasonable cause or no reasonable cause, a request for an administrative hearing can be made at any time. See Lori Wilson, Petitioner v. Scotty's, Inc. Respondent.  
\_\_\_\_FALR\_\_\_\_, FCHR Order No. 98-032(1998).

The Judge's dismissal on the merits was correct since it was supported by competent substantial evidence in the record, and the Petition should be dismissed.

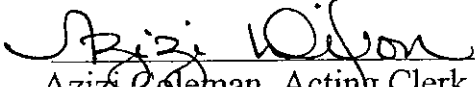
### Dismissal

The Petition for Relief is hereby **Dismissed**. The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED THIS 9 DAY OF July 2001, FOR  
THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commission Panel Chairperson,  
Roosevelt Paige  
Commissioner ; Donna Elam  
and  
Commissioner: Aristides Sosa

Filed this 9 day of July 2001  
In Tallahassee, Florida.

  
Azizi Coleman, Acting Clerk  
Florida Commission on Human  
Relations  
325 John Knox Road, Bldg. F.  
Suite 240  
Tallahassee, FL 32303-4149  
(850) 488-7082

## 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 Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

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Miles A. Lance, Assistant General Counsel

Daniel M. Kilbride, Administrative Law Judge