

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

02 FEB 13 AM 9:05

DIVISION OF
ADMINISTRATIVE
HEARINGS

Jules Itule

Petitioner,

DSM
closed

EEOC Case NO: 15D970126

FCHR Case NO: 96-1943

DOAH Case NO: 99-4035

FCHR Order NO: 01-054

v.

Marine Muffler Corp.

Respondent.

02 FEB 11 AM 10:07

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS

FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Petitioner filed a complaint of discrimination claiming he was discriminated against because of race and national origin. The Judge entered a Recommended Order of Dismissal. A transcript was filed, but no exceptions were found in the Commission file. One of the reasons that the Judge used for dismissal was that the Commission failed to make a Cause or No Cause finding within 180 days of filing of the Charge of Discrimination.

The Judge's recommendation 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). If the Judge had not decided the case on the merits of the Petitioner's claim, this error would have required a remand back to the Judge.

The Judge ruled on several other matters, which need not be addressed because he decided the case on the merits of Petitioner's claim.

Since the Judge found for the Respondent on the merits in concluding that Petitioner did not have a claim under any provable circumstance, the Petition should be dismissed. Under these circumstances any errors of law were harmless errors. The Judge's factual findings appear to be based on competent substantial evidence.

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 a 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, Rule 9.110.

DONE AND ORDERED THIS 11th DAY OF February, 2002
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Rita Craig, Panel Chairperson,
Commissioner Leonie Hermantin
Commissioner Billy Whitefox Stall

Filed this 11th day of February, 2002
In Tallahassee, Florida.

Violet Crawford

Violet Crawford, 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.

Copies Furnished:

Jules Itule
6225 Sunshine Street
Orlando, Florida 32808

John M. Finnigan, Esq.
Garwood, McKenna, McKenna and Wolf, P.A.
Post Office Box 60
Orlando, Florida 32802-0060

Miles A. Lance, Assistant General Counsel

Daniel Manry, Administrative Law Judge