

**STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS**

<b>PATRICIA M. MILLER,</b>	)	EEOC Case No. 150981133
<b>Petitioner,</b>	)	FCHR Case No. 99-1480
	)	DOAH Case No. 02-003468
<b>vs.</b>	)	FCHR Order No. <u>02-101</u>
	)	
<b>LEESBURG REGIONAL MEDICAL CENTER,</b>	)	
<b>Respondent</b>	)	

**ORDER REMANDING PETITION FOR RELIEF FROM AN UNLAWFUL  
EMPLOYMENT**

Preliminary Matters

On December 23, 1997, Petitioner filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent committed an unlawful employment practice by terminating her because of her disability and also creating a hostile work environment. The allegations set forth in the complaint were investigated and on August 13, 2002, the Executive Director issued a "Right to Sue" notice reflecting that the EEOC conducted the investigation and made a determination that it was unable to conclude that a discriminatory act occurred. The Petitioner filed a Petition for Relief on August 26, 2002. Administrative Law Judge Don W. Davis issued a Recommended Order of Dismissal dated October 17, 2002. The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Facts and Conclusions of Law

Since there was no hearing and the Administrative Law Judge based his Recommended Order on the Respondent's motion to dismiss filed October 11, 2002, and the Petitioner's responses to the motion, there is no transcript. The ALJ concluded that the Petition for Relief was filed more than four years after the last possible discriminatory action by Respondent and was, therefore, was not initiated as required within four years of the offending action. See Dixon v. Sprint-Florida, Inc., 787 So2d 968 (Fla. 5th DCA 2001); and Joshua v. City of Gainesville, 768 So2d432 (Fla. 2000). We have not applied the holding enunciated in Joshua v. City of Gainesville, 768 So.2d 432 (Fla. 2000) to administrative review of the actions of the Commission, nor its partner, the federal Equal Employment Opportunity Commission (EEOC). The statute sets forth the time period for her to Request for Relief in an administrative proceeding with which she has complied. The complainant is due her day in court as an appropriate continuation of the administrative action she first began in a timely way on December 23, 1997. See Tammy M. Ford v. Mold-Ex Rubber Company, 23 F.A.L.R. 1586, at 1587 (FCHR 2001). We conclude that the Administrative Law Judge committed an error of law in concluding that the Petitioner's Petition for Relief was barred by Section 95.11(3)(f), Florida Statutes (2001). Finally, we find:

- 1.that the Administrative Law Judge's conclusions of law we are correcting are within the substantive jurisdiction of the Florida Commission on Human Relations, namely the interpretation of the time period for filing a Complaint of Discrimination under the Florida Civil Rights Act of 1992;
- 2.the reason the corrections are being made is that the conclusions of law as stated by the Administrative Law Judge run contrary to previous Commission decisions on the issue; and
- 3.that in making this correction the conclusions of law we are substituting are as or more reasonable than the conclusions which have been rejected. See Section 120.57 (1)(l), Florida Statutes (2001).

Exceptions

Exceptions were filed by the Petitioner in the form of a letter dated October 22, 2002. Those exceptions are noted be the Commission but are not necessary to the ruling made in this matter; were not noted as being served on the Respondent; and are, therefore, stricken.

Remand

The Petition for Relief and Complain of Discrimination are hereby REMANDED to the Administrative Law Judge for further proceedings consistent with this Order.

Dismissal

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 the 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.

DONE AND ORDERED this 2nd day of January, 2003  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer; and  
Commissioner John Corbett; and  
Commissioner Rita Craig;

Filed this 2nd day of January, 2003,  
in Tallahassee, Florida

/s/

\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
4075 Esplanade Way, Room 110  
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Don W. Davis, Administrative Law Judge, DOAH

Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addresses this 2nd day of January, 2003.

By: /s/ \_\_\_\_\_  
Violet Crawford,  
Clerk of the Commission  
Florida Commission on Human Relations