

10-11-02

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

NORRIS L. FAILS

AT

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2200114

v.

DOAH Case No. 02-1902

SFD-005

CITY OF CLERMONT,

FCHR Order No. 03-011

Respondent.

**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

On December 12, 2001, 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 in terminating him because of his race (black). The allegations set forth in the complaint were investigated and on May 2, 2002, the Executive Director issued his determination that there was no reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Tavares, Florida, on July 16, 2002, before Administrative Law Judge Stephen F. Dean.

Judge Dean issued a Recommended Order of Dismissal dated October 11, 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 Fact

The Commission's file contains a transcript of the proceeding before the Administrative Law Judge.

The Administrative Law Judge found that the Petitioner was employed as a police officer by the Respondent. He also found that the City Personnel Policies and Standards Governing Police Officers had a clear rule prohibiting police officers from associating with "undesirables, including convicted felons."

The ALJ found several instances of Petitioner's failure to follow this rule. The ALJ noted that the Petitioner had been counseled on three separate occasions (twice in July and once in November, 2001), and in December was in a car owned by the felon against whom he had been counseled, and with another felon who was the subject of a "be on the lookout for" notice which had been posted on his agency bulletin boards since October, 2001. The person was also arrested for "driving under the influence." These factors ultimately resulted in Petitioner's termination. See, Recommended Order, ¶ 5-9.

The ALJ further found that the Petitioner's allegations about being treated differently from other white officers similarly situated not credible. The ALJ reviewed three such incidents presented by the Petitioner. See, Recommended Order ¶ 10-14.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

The ALJ concluded that the Respondent articulated a legitimate nondiscriminatory reason for terminating the Petitioner. Specifically, the ALJ found that the termination was for good cause and that the Petitioner had failed to carry his burden to show that the Respondent's actions were racially based or pretextual. See, Recommended Order, ¶ 20-23.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed any exceptions to the Recommended Order.

Dismissal

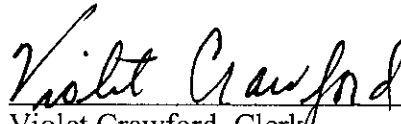
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 26<sup>th</sup> day of FEBRUARY, 2003.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Roosevelt Paige, Panel Chairperson  
Commissioner John Corbett  
Commissioner Aletta Shutes

Filed this 26<sup>th</sup> day of FEBRUARY, 2003  
in Tallahassee, Florida.

  
Violet Crawford, Clerk  
Commission on Human Relations  
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Stephen F. Dean, 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  
addressees this 26<sup>th</sup> day of February, 2003.

BY: Kristin Crawford  
Clerk of the Commission  
Florida Commission on Human Relations