

12-16-02

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

OSCAR JONES,

AT

EEOC Case No. NONE

Petitioner,

FCHR Case No. 99-03025

v.

DOAH Case No. 02-2787

SDC-CWS

COASTAL MARITIME SERVICES,

FCHR Order No. 03-013

Respondent.

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

Preliminary Matters

Petitioner Oscar Jones filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1997), alleging that Respondent Coastal Maritime Services committed an unlawful employment practice on the basis of Petitioner's race (Black) by failing to rehire Petitioner to his position as Longshoreman.

The allegations set forth in the complaint were investigated, and, on June 4, 2002, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Jacksonville, Florida, on October 2, 2002, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order of dismissal, dated December 16, 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

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

Because the Administrative Law Judge's Recommended Order addresses the merits of Petitioner's claim and we have adopted findings of fact which find against Petitioner, we conclude it unnecessary to either accept or reject the Administrative Law Judge's conclusions of law that hold the complaint in this matter was not timely filed. Accord, Kalmbacher v. Department of Environmental Protection, 23 F.A.L.R. 3377, at 3378 (FCHR 2001), and Olivera v. City of Hallandale, FCHR Order No. 02-025 (FCHR 2002).

With this limitation, we adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

The Petition 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 29th day of April, 2003.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Leonie Hermantin; and
Commissioner Mario M. Valle

Filed this 29th day of April, 2003,
in Tallahassee, Florida.



Violet Crawford, Clerk
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Diane Cleavinger, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 29th day of April, 2003.

By: Walter Crawford
Clerk of the Commission
Florida Commission on Human Relations