

8-29-03

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
2004 JUN 16 P 12:17
DIVISION OF
ADMINISTRATIVE
HEARINGS

HORACE BAILEY, JR.,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 20-03582

v.

AT

DOAH Case No. 03-0766

DSM-CWS

THE LAKELAND LEDGER,

FCHR Order No. 04-070

Respondent.

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

Preliminary Matters

Petitioner Horace Bailey, Jr., filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1999), alleging that Respondent The Lakeland Ledger committed unlawful employment practices on the basis of Petitioner's race (Black), disability (albinism), and on the basis of retaliation, in circumstances leading to, and including, Respondent's termination of Petitioner.

The allegations set forth in the complaint were investigated, and, on January 21, 2003, the Executive Director issued a determination finding that the Commission lacked jurisdiction over the allegations of the complaint because the complaint was not timely filed.

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 Tampa, Florida, on July 15, 2003, before Administrative Law Judge Daniel Manry on the issue of whether the complaint was timely filed.

Judge Manry issued a Recommended Order of dismissal on August 29, 2003.

Pursuant to notice, public deliberations were held on May 27, 2004, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Petition for Relief.

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.

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

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioner's Response to Submit Exceptions for Finder of Fact."

In the document, Petitioner essentially states the facts of the case as he sees them. Of particular relevance given the current posture of the case, Petitioner maintains that he became aware of his termination on August 12, 1999, rather than August 10, 1999, and argues that the complaint was, therefore, timely filed. See document, pages 2, 3, 5, 7, 13, 19, 22, and 23.

We have found the Administrative Law Judge's findings of fact to be supported by competent substantial evidence, and have found the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

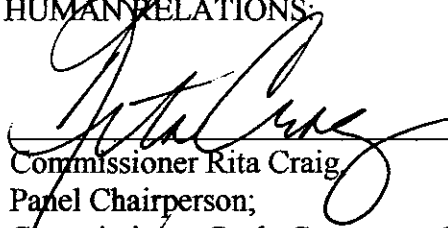
We reject Petitioner's exceptions.

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 14th day of JUNE, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Rita Craig
Panel Chairperson;
Commissioner Gayle Cannon; and
Commissioner P. C. Wu

Filed this 14th day of JUNE, 2004,
in Tallahassee, Florida.

Violet Crawford
Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

Horace Bailey, Jr.
1836 North Crystal Lake Drive, # 56
Lakeland, FL 33801

The Lakeland Ledger
c/o Stephen X. Munger, Esq.
c/o Matthew Freeman, Esq.
Jackson Lewis, LLP
1900 Marquis One Tower
245 Peachtree Center Avenue, Northeast
Atlanta, GA 30303-1226

Daniel Manry, 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 14th day of JUNE, 2004.

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