

3-4-04

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

**FILED**  
2004 JUN 28 P 1:25  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

CHRISTINE HARRIS,

EEOC Case No. 15DA200035

Petitioner,

FCHR Case No. 21-03177

v.

AT

DOAH Case No. 02-4522

EJD-CWS

CHILDRENS HOME SOCIETY,

FCHR Order No. 04-072

Respondent.

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

Preliminary Matters

Petitioner Christine Harris filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2001), alleging that Respondent Childrens Home Society committed an unlawful employment practice on the basis of Petitioner's disability (unspecified in complaint other than rehabilitation from surgery) when it filled Petitioner's position.

The allegations set forth in the complaint were investigated, and, on July 8, 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 Tavares, Florida, on November 7, 2003, before Administrative Law Judge Ella Jane P. Davis.

Judge Davis issued a Recommended Order of dismissal, dated March 4, 2004.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission.

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.

Since we have adopted the Administrative Law Judge's finding on the merits that no unlawful employment practice occurred, and we herein conclude that no error of law was made by the Administrative Law Judge in reaching this conclusion, we find it unnecessary to either accept or reject the Administrative Law Judge's conclusion that the Petition for Relief was not timely filed. See Cesarin v. Dillards, Inc., FCHR Order No. 03-037 (April 29, 2003), wherein a Commission panel made the same determination in similar circumstances as to whether to accept or reject conclusions of law relating to the timeliness of the Petition for Relief. See, also, 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) where, in both cases, a Commission panel indicated that since the Administrative Law Judge decided the case on the merits, and findings of fact were adopted which found against the Petitioner, it was unnecessary for the Commission to either accept or reject conclusions of law that the complaint in the matter was not timely filed.

Further, we recognize the authority of the Administrative Law Judge to issue sanctions for failure to comply with discovery requests, independent of the operation of the Florida Civil Rights Act of 1992, and, consequently, we do not have "final order" authority over the Administrative Law Judge's award of \$165.00 in attorney's fees to Respondent, as set out in the Preliminary Statement of the Recommended Order and in Recommended Order, ¶ 80. See, Section 120.569(2)(f), Florida Statutes (2003).

With these comments, we adopt the Administrative Law Judge's conclusions of law.

### Exceptions

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

### Dismissal

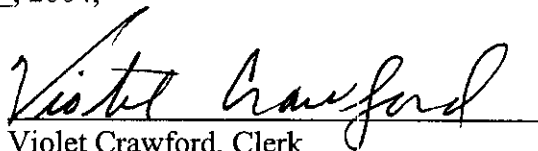
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 25<sup>th</sup> day of June, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;  
Commissioner Roosevelt Paige; and  
Commissioner Keith Roberts

Filed this 25<sup>th</sup> day of June, 2004,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(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 to:

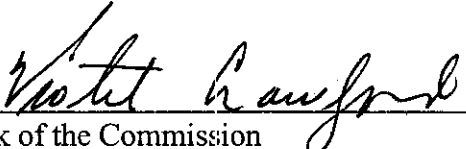
Christine Harris  
Post Office Box 624  
Mount Dora, FL 32757

Childrens Home Society  
c/o Joann M. Bricker, Esq.  
Joann M. Bricker, P.A.  
204 Royal Tern Road, North  
Ponte Vedra Beach, FL 32082

Ella Jane P. Davis, 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 25<sup>th</sup> day of June, 2004.

By:   
Clerk of the Commission  
Florida Commission on Human Relations