

5-14-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
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STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

LYNELLE CAMPBELL-METCALFE,

EEOC Case No. 15D961534

Petitioner,

FCHR Case No. 96-J234

v.

AT

DOAH Case No. 00-4764

DEPARTMENT OF EDUCATION,

FCHR Order No. 04-095

Respondent.

PMR-CWS

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

Petitioner, LYNELLE CAMPBELL-METCALFE, filed a complaint of discrimination on July 3, 2003, pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent DEPARTMENT OF EDUCATION, committed an unlawful employment practice by based on her gender. The initial complaint was not investigated within 180 days and the Petitioner filed a Petition for Relief. A formal hearing on the Petition for Relief was held in Tallahassee, Florida, on February 20, 2004, before the Administrative Law Judge P. Michael Ruff. A transcript of the hearing was filed on March 3, 2004.

Judge Ruff issued his Order of Dismissal, dated May 14, 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 and Conclusions of Law

The Petitioner was employed in a temporary (emergency) position in the mailroom with the Respondent in late 1995 through early 1996. The position was time-limited to twelve weeks in a twelve month period. See, Rule 60K-4.003(3)(d), F.A.C. (1995). While working in the emergency position, she applied for an advertised vacant Motor Vehicle Operator position in the mailroom. Approximately 20 people applied for the position and, after interviews, a person with prior experience working with the department was hired. Subsequently her time-limited position expired and she was terminated.

The ALJ found that the Petitioner failed to meet the standards for a prima facie case of discrimination because she failed to prove that she was minimally qualified for the position she sought. Even assuming, arguendo, that the prima facie burden had been met, the Respondent provide a legitimate, non-discriminatory business reason for its actions and she failed to raise any credible evidence to support her claim that any actions by Respondent were pretextual.

We adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law.

Exceptions

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

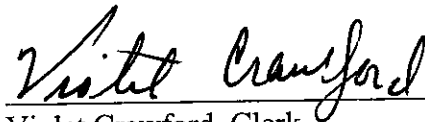
Dismissal

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 of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 4th day of August, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson
Commissioner Billy Whitefox Stall
Commissioner P.C. Wu

Filed this 4th day of August, 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:

Lynelle Campbell-Metcalf
309 Mona Drive, Apartment 1
Dothan, Alabama 36303

Margaret O'Sullivan Parker, Esquire
Office of General Counsel
The Capitol, Room 1701
Tallahassee, FL 32399

Honorable P. Michael Ruff, 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 4th day of August, 2004.

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