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**200216 TBD.F**  
**'AGENCY FINAL ORDERS'**

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Unofficial Reporter

4/15/2002 - 4/21/2002

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TABLE OF CONTENTS | 200216 TBD.F

ID	Caption	Page
001	<i>Mccabe v. Woodland Towers</i>	3
002	<i>Schwartz v. Bay County</i>	7
003	<i>Ivey v. DOT</i>	11
004	<i>Carter v. Golden Corral</i>	15
005	<i>Indish-Militello v. Pinellas Suncoast Transit Authority</i>	18
006	<i>Brockington v. DOC</i>	22
007	<i>Elso v. City of Hialeah Gardens</i>	26
-	Appendix	30



**200216 TBD.F 001**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Mccabe v. Woodland Towers*

**CITATION:** 200216 TBD.F 001

**ORDER NO:** 02-015

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1996-L409 (FCHR)  
98-003082 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	rac	rel	ret	sex	unk
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**FILENAME:** 02-015.pdf

**PAGES:** 3

**RESULT:** Final (dismissed)



**STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS**

<b>ROBERTA MCCABE,</b>	)	EEOC Case No. 15D970386
<b>Petitioner,</b>	)	FCHR Case No. 96-L409
	)	DOAH Case No. 98-003082
<b>vs.</b>	)	FCHR Order No. <u>02-015</u>
	)	
<b>WOODLAND TOWERS,</b>	)	
<b>Respondent</b>	)	

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

Preliminary Matters

Petitioner Roberta McCabe filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1995), alleging that Respondent Woodland Towers, committed an unlawful employment practice on the basis of Petitioner's age (61) when it terminated Petitioner from her position. Petitioner requested an administrative hearing and the Commission transmitted the case to the Division of Administrative Hearings for the conduct of a formal proceeding. An evidentiary hearing was held in Deland, Florida, on December 9, 1998, before Administrative Law Judge P. Michael Ruff. Judge Ruff issued a Recommended Order of dismissal, dated April 5, 1999. A Commission panel issued an Order Remanding Request For Relief From An Unlawful Employment Practice, filed on February 11, 2000. Judge Ruff issued an Order declining the Commission's remand on June 12, 2001. The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order, dated April 5, 1999, in light of the Order declining the Commission's remand, dated June 12, 2001.

Findings of Fact

The Administrative Law Judge's findings of fact set out in the April 5, 1999, Recommended Order are supported by competent substantial evidence. We adopt the Administrative Law Judge's findings of fact set out in the April 5, 1999, Recommended Order.

Conclusions of Law

We find the Administrative Law Judge's conclusions of law, set out in the Recommended Order, dated April 5, 1999, while containing the errors set out in the Commission's Order Remanding Request For Relief From An Unlawful Employment Practice, filed on February 11, 2000, to result in a correct disposition of the matter. Despite the Administrative Law Judge's error in failing to include analysis to appropriately conclude whether Petitioner established a prima facie case of the discriminatory imposition of discipline (See, Commission's Order Remanding Request For Relief From An Unlawful Employment Practice, page 2), we conclude that even if such a prima facie case were established, the Administrative Law Judge's conclusion that, "Aside from the Petitioner's initial charge of age discrimination, the evidence offered by the Respondent that it terminated her for a legitimate, nondiscriminatory

reason was not effectively challenged" (Recommended Order, dated April 5, 1999), is sufficient to defeat Petitioner's age discrimination claim. While we reiterate the errors of law set out in the Commission's earlier order, we adopt the Administrative Law Judge's conclusions of law to the extent that their application to the facts found by the Administrative Law Judge results in dismissal of the Complaint of Discrimination and Request for Relief.

#### Exceptions

Neither party filed exceptions to the Administrative Law Judge's Order declining the Commission's remand, dated June 12, 2001.

#### 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.

#### 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.

DONE AND ORDERED this 17th day of April, 2002  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy W. Stall; and  
Commissioner Juan Montes; and  
Commissioner Rita Craig;

Filed this 17th day of April, 2002,  
in Tallahassee, Florida

/s/

---

Denise Crawford, Clerk  
Commission on Human Relations  
4075 Esplanade Way, Room 110  
Tallahassee, FL 32399  
(850) 488-7082

Copies furnished to:

Roberta McCabe  
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Robert W. Lloyd, Esq.  
Cobb, Cole and Bell  
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Daytona Beach, FL 32115

P. Michael Ruff, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

By: /s/

Denise Crawford,

Clerk of the Commission

Florida Commission on Human Relations

**200216 TBD.F 002**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Schwartz v. Bay County*

**CITATION:** 200216 TBD.F 002

**ORDER NO:** 02-019

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1996-1776 (FCHR)

99-004043 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	rac	rel	ret	sex	unk
<input checked="" type="checkbox"/>								<input checked="" type="checkbox"/>		

**FILENAME:** 99004043 Agency Final Order.PDF

**PAGES:** 3

**RESULT:** Final (dismissed)



6-29-01

FILED

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

02 APR 19 AM 9:11

Linda Schwartz

AP

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

Petitioner,

EEOC Case No: 15D970314

FCHR Case No: 96-1776

DOAH Case No: 99-4043

FCHR Order No: 02-019

Closeal  
EJD

v.

Guy M. Tunnell,  
Bay County Sheriff's Office.

Respondent.

FINAL ORDER DISMISSING PETITION FOR RELIEF FROM AN  
UNLAWFUL EMPLOYMENT PRACTICE

This case is back from a remand to the Division of Administrative Hearings by the Florida Commission on Human Relations. The reason the case was remanded was that the Commission held that Petitioner could make a claim under the Florida Civil Rights Act of 1992, embodied in Fla. Stat. Chapt. 760, since Deputy Sheriff's should be treated as employees under the statute. The Division of Administrative Hearings held a hearing, and a Recommended Order dated June 29, 2001, was entered recommending that the Petitioner's claim be denied. The original claims were on the bases age, gender, retaliation and hostile work environment.

Petitioner's attorney claimed that she had filed timely Exceptions to the Recommended Order, and Respondent's attorney filed a motion to strike the exceptions as untimely and improperly served when he finally did get them. Petitioner's attorney has informed the Commission that she does not intend to respond to the motion to strike. Therefore, Respondent's motion to strike should be and hereby is granted.



A transcript was filed but no timely exceptions were found in the Commission file. The Judge's Recommended Order contained lengthy discussions in the scope of the Charge of Discrimination and related matters, but she proceeded to decide the case based upon the factual matters alleged in the Charge of Discrimination. The Judge's Conclusions of Law, particularly in Paragraphs 105, 106, and 107, are rejected as applied to the facts of this case and are not precedent for the decision of future cases, since all of the provisions on the filing of complaints and amendments to complaints under Chapt. 760 are not discussed, and particularly in view of the extensive Charge of Discrimination filed by the Petitioner. Essentially The Judge decided the case on all of the factual issues raised by Petitioner, and this decision is supported by competent substantial evidence. On the issue of lost wages the Conclusions of Law are not necessary to this decision and are disregarded since Petitioner has not shown a sufficient factual bases for relief on the issues involving liability on all matters raised in the Charge of Discrimination and in the Petition for Relief.

To a large extent the Judge decided this case on the issues involving the credibility of the witnesses. This is permissible and it cannot be said that there is a lack of competent substantial evidence to support the factual conclusions of the Judge.

### **Dismissal**

The Petition for Relief is hereby dismissed for the reasons indicated.

Each party is advised of their right to petition the Florida District Court of Appeal for judicial review of this Final Agency Order. Such Notice of Appeal must be filed within 30 days of the date that this order is filed with the Clerk of the Commission. See Section 120.68, Florida Statutes, and the Florida Rules of Appellate Procedure, Rule 9.110, for the complete requirements and rules on the right to appeal, and the applicable procedure.

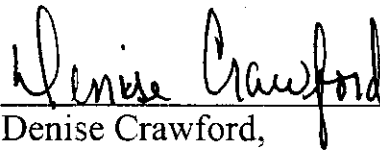
**DONE AND ORDERED THIS** 17<sup>th</sup> **DAY OF** April,

**2002, FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS**

Commission Rita Craig, Panel Chairperson  
Commissioner Billy Whitefox Stall  
Commissioner Juan Montes

Filed this 17<sup>th</sup> day of April, 2002,

in Tallahassee, Florida.



Denise Crawford,  
Clerk of the Commission  
Florida Commission On Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082, Ext. 1032

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 the Miami District Office EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

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Miles A. Lance, Legal Advisor for the Commission Panel

Ella Jane P. Davis, Administrative Law Judge

**200216 TBD.F 003**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Ivey v. DOT*

**CITATION:** 200216 TBD.F 003

**ORDER NO:** 02-013

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1997-J125 (FCHR)  
01-001686 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	rac	rel	ret	sex	unk
						☒		☒		

**FILENAME:** 01001686 ATAFO.pdf

**PAGES:** 3

**RESULT:** Final (dismissed)



12-4-01

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

AT

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

02 APR 19 AM 9:09

FILED

PMR

CW

ALLISON IVEY,

EEOC Case No. 15E071224

Petitioner,

FCHR Case No. 97-J1

v.

DOAH Case No. 01-1686

DEPARTMENT OF TRANSPORTATION,

FCHR Order No. 02-013

Respondent.

FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Allison Ivey 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 Department of Transportation committed an unlawful employment practice on the basis of Petitioner's race (Black), and on the basis of retaliation, regarding issues of pay, advancement opportunity and discipline during Petitioner's employment with Respondent.

The allegations set forth in the complaint were investigated, and, on March 23, 2001, 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 Tallahassee, Florida, on August 23, 2001, before Administrative Law Judge P. Michael Ruff.

Judge Ruff issued a Recommended Order of dismissal, dated December 4, 2001.

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.

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.

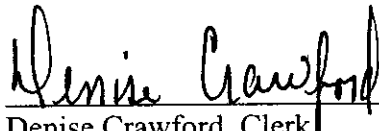
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 17<sup>th</sup> day of April, 2002.

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;  
Commissioner Juan Montes; and  
Commissioner Billy Whitefox Stall

Filed this 17<sup>th</sup> day of April, 2002,  
in Tallahassee, Florida.



Denise Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082, Ext. 1032

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.

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Robert M. Burdick, Esq.  
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P. Michael Ruff, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

**200216 TBD.F 004**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Carter v. Golden Corral*

**CITATION:** 200216 TBD.F 004

**ORDER NO:** 02-017

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1998-2288 (FCHR)  
01-002408 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	rac	rel	ret	sex	unk
<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>				

**FILENAME:** 02-017.pdf

**PAGES:** 2

**RESULT:** Remand (continue litigation)



**STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS**

<b>RANDALL CARTER,</b>	)	EEOC Case No. 15D980815
<b>Petitioner,</b>	)	FCHR Case No. 98-2288
	)	DOAH Case No. 01-002408
<b>vs.</b>	)	FCHR Order No. 02-017
	)	
<b>I-DRIVE GC, INC., D/B/A GOLDEN CORRAL,</b>	)	
<b>Respondent</b>	)	

**ORDER REMANDING RECOMMENDED ORDER DENYING RELIEF FROM AN  
UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner filed a Petition For Relief claiming he was discriminated against because of his race and age. There was a no-cause finding by the Florida Commission on Human Relations dated April 30, 2001 and Petitioner filed a Petition for relief received on June 8, 2001. The Petition should have been received by the Commission no later than June 4, 2001, pursuant to the applicable statute, but three days, as determined by the postmark on the letter probably transmitting the Petition must be added. This is required pursuant to the applicable administrative rules, and prior Commission precedent. That letter is postmarked June 6, 2001. Therefore the Petition is timely filed. See *Debose v. Columbia North Florida Regional Medical Center*, FCHR Order Number 01-007. The Judge filed a Recommended Order and an Amended Recommended Order (of no significance to this decision) in granting a motion to dismiss by Respondent, which contained no findings of fact or separately stated conclusions of law, where, in addition to the above issue, the Judge held that the 35 day period for filing the Petition For Relief runs from the end of the 180 period that the Commission has for investigating the case. This holding contravenes the long standing practice of the Commission. No exceptions were found in the file.

Remand

The Petition For Relief is hereby Remanded for a hearing on the merits. The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive a 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 17th day of April, 2002  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy W. Stall; and  
Commissioner Juan Montes; and  
Commissioner Rita Craig;



Filed this 17th day of April, 2002,  
in Tallahassee, Florida

/s/

---

Denise Crawford, Clerk  
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Daniel Manry, Administrative Law Judge, DOAH

Miles A. Lance, Legal Advisor for Commission Panel

By: /s/

---

Denise Crawford,  
Clerk of the Commission  
Florida Commission on Human Relations

**200216 TBD.F 005**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Indish-Militello v. Pinellas Suncoast Transit Authority*

**CITATION:** 200216 TBD.F 005

**ORDER NO:** 02-016

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1995-J843 (FCHR)

01-002512 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	<input checked="" type="checkbox"/>	fam	mar	nat	rac	rel	ret	sex	unk

**FILENAME:** 02-016.pdf

**PAGES:** 3

**RESULT:** Remand (continue litigation)



**STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS**

<b>SUSAN INDISH-MILITELLO,</b>	)	EEOC Case No. N/A
<b>Petitioner,</b>	)	FCHR Case No. 95-J843
	)	DOAH Case No. 01-002512
<b>vs.</b>	)	FCHR Order No. <u>02-016</u>
	)	
<b>PINELLAS SUNCOAST TRANSIT AUTHORITY,</b>	)	
<b>Respondent</b>	)	

**ORDER REMANDING REQUEST FOR RELIEF FROM AN UNLAWFUL  
EMPLOYMENT PRACTICE**

Preliminary Matters

This matter is before the Commission for consideration of the Recommended Order of Dismissal issued in the above-styled matter, on January 17, 2002, by Administrative Law Judge Carolyn S. Holifield. The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order of Dismissal.

Conclusions of Law

The Recommended Order of Dismissal indicates that the cause had come before the Administrative Law Judge on Respondent's "Motion to Dismiss" and that "[b]ased on Respondent's Motion, argument and representations of counsel and Petitioner, and a review of the record of the case and pertinent law" the file of the Division of Administrative Hearings is closed and the matter is returned to the Commission with the recommendation that the Commission issue a final order dismissing the matter. See Recommended Order of Dismissal. Generally, Respondent's motion notes that the date of the discrimination alleged in this matter is September 8, 1994, that the Commission has not issued a determination in the matter, and that Petitioner filed a Request for Formal Administrative Hearing on May 9, 2001. See Motion. Respondent's motion argues "the Florida Supreme Court recently held in Joshua v. City of Gainesville, 768 So. 2d 432 (Fla. 2000), that when the Commission fails to make any determination as to reasonable cause within 180 days, a four-year statute of limitations period for any cause of action applies," and that, "under Joshua, any subsequent action by the Petitioner was required to be filed within four years of the alleged discrimination, or by September 8, 1998," thereby making the Request for Formal Administrative Hearing time-barred. Id. The motion further argues that the matter should be dismissed because the Charge of Discrimination and Amended Charge of Discrimination filed in the matter "are completely devoid of any facts or statements describing the violation sufficient to put the Respondent on notice of the alleged violation or to allow the Respondent to prepare a proper defense." Id. The Administrative Law Judge's Recommended Order of Dismissal contains no findings of fact or conclusions of law to reveal the reasoning as to why the Administrative Law Judge closed the file of the Division of Administrative Hearings. See Recommended Order of Dismissal. The Florida Civil Rights Act of 1992 (Act) states, "In the event that the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days of the filing of the

complaint, an aggrieved person may proceed under subsection (4), as if the commission determined that there was reasonable cause." Section 760.11(8), Florida Statutes (2001). The referred to subsection (4) states, "In the event that the commission determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992, the aggrieved person may either: (a) Bring a civil action against the person named in the complaint in any court of competent jurisdiction; or (b) Request an administrative hearing under ss. 120.569 and 120.57." Section 760.11(4), Florida Statutes (2001). With regard to civil suits, the Act states, "A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission." Section 760.11(5) Florida Statutes (2001). With regard to administrative proceedings, the Act states, "An administrative hearing pursuant to (4)(b) must be requested no later than 35 days after the date of determination of reasonable cause by the commission." Section 760.11(6), Florida Statutes (2001). In a case such as the instant case, in which no "determination" was issued by the Commission and in which the Commission noted that the request for administrative hearing was filed both more than four years after the filing of the initial complaint, and, obviously then, more than four years after the date of harm, the Commission concluded the request for administrative hearing to be timely filed, despite the Respondent's argument that Joshua, supra, barred the request for administrative hearing. See Prentice v. North American Realty Corp., d/b/a North American Acquisition Corp., FCHR Order No. 00-021 (FCHR 2000). In so doing, the Commission panel in Prentice noted, "In interpreting these statute sections a Commission panel stated, '...we conclude that the plain meaning of the cited statutory provisions is that a complainant may request an administrative hearing at any time after the conclusion of the initial 180-day period following the filing of the complaint and no later than 35 days after the date of a determination by the Commission (or simply no later than 35 days after the date of determination, if the Commission's investigation is completed within 180 days of the filing of the complaint).' Wilson v. Scotty's, Inc., FCHR Order No. 98-032 (FCHR 1998)." Prentice, supra. The Commission panel in Prentice further noted "that Joshua dealt with the time frame for filing a civil action in court, as opposed to the time frame to request an administrative hearing, the issue presented in this case, and conclude that nothing in the Joshua decision requires deviation from the Commission's position set out in Wilson, supra." Id. With regard to the suggestion that the matter should be dismissed because insufficient facts were set out in the charging documents to notice the Respondent of the alleged violation, it would appear to us that dismissal of the matter prior to providing an opportunity to a pro se Petitioner to correct defects in the filing is severe. Nevertheless, we cannot discern from the Recommended Order of Dismissal the reasoning of the Administrative Law Judge for recommending that the Commission enter a final order dismissing the matter. We conclude this matter should be remanded for further proceedings in accordance with the guidance provided in this Order.

#### Exceptions

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

#### Remand

This matter is hereby REMANDED to the Administrative Law Judge for further proceedings consistent with this Order.

DONE AND ORDERED this 17th day of April, 2002  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy W. Stall; and  
Commissioner Juan Montes; and  
Commissioner Rita Craig;

Filed this 17th day of April, 2002,  
in Tallahassee, Florida

*/s/*

---

Denise Crawford, Clerk  
Commission on Human Relations  
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Tallahassee, FL 32399  
(850) 488-7082

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Elita Cobb, Esq.  
Pinellas Suncoast Transit Authority  
2650 McCormick Drive, Suite 100  
Clearwater, FL 33759

Carolyn S. Holifield, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

By: */s/*

---

Denise Crawford,  
Clerk of the Commission  
Florida Commission on Human Relations

**200216 TBD.F 006**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Brockington v. DOC*

**CITATION:** 200216 TBD.F 006

**ORDER NO:** 02-018

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 1995-G343 (FCHR)  
01-003338 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	<input checked="" type="checkbox"/>	rel	ret	<input checked="" type="checkbox"/>	unk

**FILENAME:** 01003338 ATAFO.PDF

**PAGES:** 3

**RESULT:** Final (dismissed)



1-18-02

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS 02 APR 19 AM 9:10

FILED

AT

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

Hugh F. Brockington, II

Petitioner,

EEOC Case No: 15D950481

FCHR Case No: 95-G343

DOAH Case No: 01-3338

FCHR Order No: 02-018

WRC  
Closed

v.

Department of Corrections

Respondent.

---

FINAL ORDER DISMISSING REQUEST FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Petitioner filed a Charge of discrimination claiming he was discriminated against because of his race and gender. He also claimed that he was reprimanded for allegedly abusing Respondent's sick leave policy, because of the discrimination.

No exceptions were found in the file.

The Judge held that the Respondent should prevail on merits because there was no evidence of discrimination, and recommended dismissal of the Petition.

The Judge's dismissal on the merits was correct since it was supported by competent substantial evidence in the record, and the Petition For Relief should be dismissed. There are no recognizable errors of law as applied to the facts of this case.

**Dismissal**

The Petition For Relief is hereby **Dismissed**.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive a 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 17<sup>th</sup> DAY OF April, 2002, FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commission Panel Chairperson, Rita Craig  
Commissioner Billy Whitefox Stall  
Commissioner Juan Montes

Filed this 17<sup>th</sup> day of April, 2002,

in Tallahassee, Florida.



Denise Crawford, Clerk  
Florida Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082, Ext. 1032

**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.



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William R. Cave, Administrative Law Judge

**200216 TBD.F 007**  
**'AGENCY FINAL ORDERS'**

**CAPTION:** *Elso v. City of Hialeah Gardens*

**CITATION:** 200216 TBD.F 007

**ORDER NO:** 02-014

**DATE:** 4/17/2002

**STATE:** FL

**CASE NO:** 21-01128 (FCHR)  
01-003465 (DOAH)

**CASE TYPE:** Employment Discrimination

age	col	dis	fam	mar	nat	rac	rel	ret	sex	unk
<input checked="" type="checkbox"/>										

**FILENAME:** 01003465 ATAFO.pdf

**PAGES:** 3

**RESULT:** Final (dismissed)



1-3-02

AT

FILED

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

02 APR 19 AM 9:12

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

JUAN ELISO,

EEOC Case No. 150A1142

Petitioner,

FCHR Case No. 21-01128

v.

DOAH Case No. 01-3465

CITY OF HIALEAH GARDENS,

FCHR Order No. 02-014

Respondent.

closed  
MMP

FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Juan Eliso 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 City of Hialeah Gardens committed an unlawful employment practice on the basis of Petitioner's age (47) when it demoted him from the position of Maintenance Supervisor.

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 by video teleconference in Miami, Florida, and Tallahassee, Florida, on November 16, 2001, before Administrative Law Judge Michael M. Parrish.

Judge Parrish issued a Recommended Order of dismissal, dated January 3, 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

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.

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

Exceptions

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

Dismissal

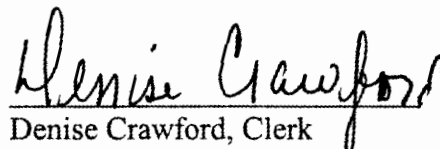
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 17<sup>th</sup> day of April, 2002.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;  
Commissioner Juan Montes; and  
Commissioner Billy Whitefox Stall

Filed this 17<sup>th</sup> day of April, 2002,  
in Tallahassee, Florida.



Denise Crawford, Clerk  
Commission on Human Rela<sup>t</sup>  
2009 Apalachee Parkway, S  
Tallahassee, FL 32301  
(850) 488-7082, Ext. 10

NOTICE TO COMPLAINANT / PETITIONER

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Coral Gables, FL 33133

Michael M. Parrish, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

APPENDIX



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