

4-17-00

DATE FILED

BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

JUN 6 2000

COMMISSION ON ETHICS

In re CAROLYN FORD,)
)
 Respondent.)
)
)
)
 _____)

AT

Complaint No. 98-108
DOAH No. 99-2411EC
Final Order No. COE 00-026

CSH-CWS

FILED
2000 JUN 12 P 1:41

FINAL ORDER AND PUBLIC REPORT

This matter came before the State of Florida Commission on Ethics, meeting in public session on June 1, 2000, pursuant to the Recommended Order of the Division of Administrative Hearings' Administrative Law Judge rendered in this matter on April 17, 2000 [a copy of which is attached and incorporated by reference]. The Administrative Law Judge recommends that the Commission enter a final order and public report finding that the Respondent, CAROLYN FORD, did not violate either Sections 112.3135(2)(a) or Section 112.313(6), Florida Statutes.

STANDARDS FOR REVIEW

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law and interpretations of administrative rules contained in the recommended order. However, the agency may not reject or modify findings of fact made by the Administrative Law Judge *unless a review of the entire record* demonstrates that the findings were not based on competent, substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. See, e.g., Freeze v. Dept. of Business Regulation, 556 So. 2d 1204 (Fla. 5th DCA 1990); and Florida Department of Corrections v. Bradley, 510 So. 2d 1122 (Fla. 1st DCA 1987). Competent, substantial evidence has been defined by the Florida Supreme Court as such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the

conclusions reached." DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957).

The agency may not reweigh the evidence, resolve conflicts therein, or judge the credibility of witnesses, because those are matters within the sole province of the hearing officer. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any competent, substantial evidence to support a finding of fact made by the Administrative Law Judge, the Commission is bound by that finding.

Under the Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretations of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified.

FINDINGS OF FACT AND CONCLUSION OF LAW

Neither the Respondent nor the Commission's Advocate filed exceptions to the Recommended Order. Therefore, after considering the Recommended Order in public session pursuant to notice to the Advocate and the Respondent, the Commission adopts the Recommended Order in full.

Accordingly, the Commission on Ethics finds that the Respondent, CAROLYN FORD, as a member of the Quincy City Commission, did not violate either Section 112.3135(2)(a), Florida Statutes, by advocating the appointment of her son for a position with the City of Quincy Police Department or Section 112.313(6), Florida Statutes, by using her official position as a member of the Quincy City Commission to attempt to obtain a job for her son with the City of Quincy Police Department, as alleged, and hereby dismisses the complaint.

ORDERED by the State of Florida Commission on Ethics meeting in public session on June 1,
2000.

June 4, 2000
Date Rendered

Peter M. Dunbar
Peter M. Dunbar
Chair

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110 FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, 2822 REMINGTON GREEN CIRCLE, SUITE 101, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

cc: Mr. Jack L. McLean, Jr. Esquire, Attorney for Respondent
Mr. James H. Peterson,, Commission Advocate
Ms. Mary Corder, Complainant
Honorable Carolyn S. Holifield, Administrative Law Judge
Division of Administrative Hearings