

2-11-02

FILED  
02 JUN -4 AM 9:47  
UNIVERSITY  
ADMINISTRATIVE  
HEARINGS

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

AT

THOMAS E. HALL,

EEOC Case No. 15D970864

Petitioner,

FCHR Case No. 96-1528

v.

DOAH Case No. 01-2693

MEX OF SANTA ROSA, INC.,

FCHR Order No. 02-028

Respondent.

PMR-CWS

FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Thomas E. Hall 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 Mex of Santa Rosa, Inc., committed unlawful employment practices on the basis of Petitioner's race (Black). Specifically, Petitioner alleged that he was constructively discharged by being exposed to a racially hostile work environment. Petitioner further alleged that he was denied advancement, and that he was given more and broader job duties with no additional compensation, all on the basis of his race.

The allegations set forth in the complaint were investigated, and, on June 4, 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 Milton, Florida, on September 27, 2001, before Administrative Law Judge P. Michael Ruff.

Judge Ruff issued a Recommended Order of dismissal on February 11, 2002.

Pursuant to notice, public deliberations were held on April 30, 2002, 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 Recommended Order in a document entitled, "Petitioner's Exception to Recommended Order of Administrative Law Judge."

Petitioner's exceptions take issue with the inferences drawn by the Administrative Law Judge from the evidence presented, and take issue with the credibility given witnesses by the Administrative Law Judge.

It has been stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999).

We deny 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 31<sup>st</sup> day of May, 2002.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

RECEIVED  
FILED  
02 JUN 24 13 PM 1:23  
ADM. DIVISION  
04  
Commissioner Gayle Cannon,  
Panel Chairperson;  
Commissioner Aletta Shutes; and  
Commissioner Billy Whitefox Stall

Filed this 31<sup>st</sup> day of May, 2002,  
in Tallahassee, Florida.

Violet Crawford  
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:

Bruce Committee, Esq.  
17 S. Palafox Place, # 306  
Pensacola, FL 32501

Jennifer Byrom, Esq.  
P.O. Box 685  
Milton, FL 32572

P. Michael Ruff, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel