

3-28-02

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FLORIDA COMMISSION ON
HUMAN RELATIONS

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

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AT

JOSE A. DIAZ,

EEOC Case No. 15D970696

Petitioner,

FCHR Case No. 96-1805

v.

DOAH Case No. 01-3866

OHIO DISPOSAL SYSTEMS, INC.,

FCHR Order No. 02-046

Respondent.

_____ /

FILED
AUG 19 AM 9:30
ADMINISTRATIVE
HEARINGS

HLH - Closed

FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Jose A. Diaz 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 Ohio Disposal Systems, Inc., committed an unlawful employment practice on the basis of Petitioner's age and National Origin (Hispanic) when it failed to hire him for a position.

The allegations set forth in the complaint were investigated, and, on September 17, 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 Pensacola, Florida, on February 7, 2002, before Administrative Law Judge Harry L. Hooper.

Judge Hooper issued a Recommended Order of dismissal on March 28, 2002.

Pursuant to notice, public deliberations were held on July 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.

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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."

The exceptions contained therein appear to go to the weight of the evidence.

We have found the Administrative Law Judge's findings of fact to be supported by competent substantial evidence, supra, and the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter, supra.

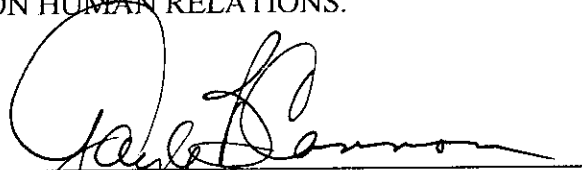
We deny Petitioner's exceptions.

Dismissal

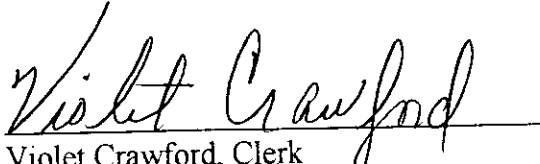
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 16th day of August, 2002.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:


Commissioner Gayle Cannon,
Panel Chairperson;
Commissioner John Corbett; and
Commissioner Donna Elam

Filed this 16th day of August, 2002,
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:

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Harry L. Hooper, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel