

7-9-03

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
04 FEB 27 AM 9:18
DIVISION OF
ADMINISTRATIVE
HEARINGS
JBC-CLOS

Clarence Goosby,

EEOC Case No. NONE

Petitioner,

AT

FCHR Case No. 22-02387

v.

DOAH Case No. 02-3994

Florida Extrudes International, Inc.,

FCHR Order No. 04-004

Respondent.

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

Petitioner, CLARENCE GOOSBY, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, FLORIDA EXTRUDES INTERNATIONAL, INC., committed an unlawful employment practice by terminating him because of his race. The allegations set forth in the complaint were investigated and on September 10, 2002, the Executive Director issued his determination that there was no reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Tallahassee, Florida, on April 28, 2003, before Administrative Law Judge Jeff B. Clark. Judge Clark issued a Recommended Order of Dismissal dated July 9, 2003.

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 Commission's file contains a transcript of the proceeding before the Administrative Law Judge.

With regard to the steps necessary for establishing that an unlawful employment practice has occurred, it has been stated, "The initial burden is upon Petitioner to establish a prima facie case of discrimination. Once Petitioner established a prima facie case, a presumption of unlawful discrimination is created. The burden then shifts to Respondent to show a legitimate, nondiscriminatory reason for its action. If Respondent carries this burden, Petitioner then must prove by a preponderance of the evidence that the reason offered by the Respondent is not its true reason, but only a pretext for discrimination." See conclusions of law adopted by a Commission panel in Spradlin vs. Washington Mutual Bank, d/b/a Great Western, 23 F.A.L.R. 3359, at 3364, 3365 (FCHR 2001), citations from the quoted statement omitted.

The Administrative Law Judge found that the Petitioner had not made a prima facie case. The ALJ further found that, even assuming arguendo, that the Petitioner had met his prima facie burden as to disparate treatment, the employer had articulated a legitimate, non-discriminatory

reason for the decision to terminate. The Petitioner further failed to prove that that reason was pre-textual to discrimination.

We adopt the Administrative Law Judge's findings of fact and conclusions of law

Exceptions

Neither party filed any exceptions to the Recommended Order.

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.

DONE AND ORDERED this 26th day of February, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Billy Whitefox Stall, Chairperson
Commissioner Gilbert M. Singer
Commissioner P.C. Wu

Filed this 26th day of February, 2004
in Tallahassee, Florida.


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Honorable Jeff B. Clark, 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 26th day of February, 2004.

BY: 
Clerk of the Commission
Florida Commission on Human Relations