

7-16-03

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
03 DEC 29 AM 9:34  
DIVISION OF ADMINISTRATIVE HEARINGS

WANDA HARKINS,

EEOC Case No. 151A00717

Petitioner,

FCHR Case No. 20-03932

v.

At

DOAH Case No. 02-4523

CSH-CWS

HILLSBOROUGH COUNTY TAX  
COLLECTOR,

FCHR Order No. 03-083

Respondent.

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

Preliminary Matters

Petitioner Wanda Harkins filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2001), alleging that Respondent Hillsborough County Tax Collector committed an unlawful employment practice on the basis of Petitioner's age (DOB: 1/12/45) when it denied Petitioner promotions for which she had applied.

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.

The Recommended Order reflects that an evidentiary hearing was held in Tallahassee, Florida, on April 7, 8, and 9, 2003, before Administrative Law Judge Carolyn S. Holifield.

Judge Holifield issued a Recommended Order of dismissal, dated July 16, 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

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 note that in concluding that Petitioner established a prima facie case of age discrimination the Administrative Law Judge indicated, among other things, "...Petitioner is a member of a protected group in that she is over 40 years of age." Recommended Order, ¶ 32.

While we agree that Petitioner is a member of a protected group, we note that all people are members of a protected group when it comes to allegations of age discrimination. A Commission panel has stated, "While the federal Age Discrimination in Employment Act uses the age of 40 as the age at which the Act's protection begins (see 29 U.S.C. § 631), the age of 40 has no significance in interpreting the Florida Civil Rights Act of 1992, or its predecessor, the Human Rights Act of 1977, as amended. The Commission has consistently held that Florida law prohibits discrimination in employment on the basis of any age, birth to death,..." Green v. ATC/VANCOM Management, Inc., 20 F.A.L.R. 314, at 315 (1997).

With this explanatory clarification, we adopt the Administrative Law Judge's conclusions of law.

Exceptions

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

Dismissal

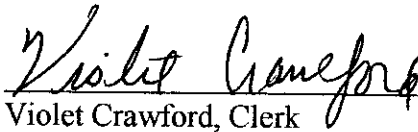
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 26<sup>th</sup> day of December, 2003.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy Whitefox Stall, Panel Chairperson;  
Commissioner John Corbett; and  
Commissioner Aletta Shutes

Filed this 26<sup>th</sup> day of December, 2003,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
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Copies furnished to:


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Carolyn S. Holifield, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 26<sup>th</sup> day of December, 2003.

By:   
Clerk of the Commission  
Florida Commission on Human Relations