

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

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JAMES S BROWN,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 21-01914

v.

DOAH Case No. 03-1108

PMR
closed

ALACHUA COUNTY SHERIFF'S DEPARTMENT

FCHR Order No. 04-127

Respondent.

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

On May 9, 2001, Petitioner filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent committed an unlawful employment practice when he was demoted because of his race. The allegations set forth in the complaint were investigated and on February 14, 2003, 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 given a formal evidentiary hearing in Gainesville, Florida, on January 20, 2004.

Judge P. Michael Ruff issued a Recommended Order of Dismissal dated July 30, 2004.

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

Judge Ruff found that Petitioner was employed by Respondent for approximately seventeen years; first, as a deputy sheriff and, more recently, as a sergeant. Upon promotion to sergeant, the Petitioner was required to serve a one-year probationary period that was extended by six-months following an incident in which the Petitioner was found to have violated the Respondent's policy regarding conduct unbecoming an employee and regarding truthfulness. The ALJ further found that, on a second occasion, the Petitioner violated the Respondent's policy regarding conduct unbecoming an employee and regarding association with a known felon. The Sheriff, within the extended probationary period, demoted the Petitioner back to deputy.

The Petitioner alleged that certain white officers similarly situated were treated differently. The Respondent recounted each allegation and provided evidence that they were not treated more favorably or were not similarly situated. Therefore, the ALJ found that the Petitioner failed to carry his burden of proving a prima facie case. In addition, assuming arguendo that the Petitioner had met his initial burden of proving a prima facie case, the Respondent offered legitimate business reasons for demoting the Petitioner following

progressive discipline for violating Office policies; particularly, those involving improper conduct, truthfulness and associating with a known felon. The ALJ concluded that the Petitioner did not offer any credible evidence that he was discriminated against on the basis of race. The ALJ further concluded that the Petitioner did not meet his burden of showing that a discriminatory reason, more likely than not, motivated the decision or by showing that the proffered reason for the employment decision is not worthy of belief.

We adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law.

Exceptions

Neither party submitted exceptions.

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 21st day of October, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Rita Craig, Panel Chairperson
Commissioner Roosevelt Paige
Commissioner Dominique B. Saliba, M.D

Filed this 21st day of October, 2004
in Tallahassee, Florida.


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Honorable P. Michael Ruff, 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 21st day of October, 2004.

BY: 
Clerk of the Commission
Florida Commission on Human Relations