

7-1-03
STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

Michele M. Young,

Petitioner,

v.

Department of Business & Professional Regulation

Respondent.

AT

EEOC Case No. 15DA200236

FCHR Case No. 22-00670

DOAH Case No. 03-1140

FCHR Order No. 04-002

FILED
04 FEB 27 AM 9:19
DIVISION OF
ADMINISTRATIVE
HEARINGS

EJD-CLOS

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

Petitioner, MICHELE M. YOUNG, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION, committed an unlawful employment practice by terminating her because of her race. The allegations set forth in the complaint were investigated and on March 10, 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 granted a formal evidentiary hearing that was held in Tallahassee, Florida, on May 19, 2003, before Administrative Law Judge Ella Jane P. Davis.

Judge Davis issued a Recommended Order of Dismissal dated July 1, 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 her 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.

The Administrative Law Judge further found that the Petitioner's allegation of retaliation against a protected expression was not alleged before the Commission and was not investigation. As such, it was barred from consideration and time-barred from any further action. The ALJ also found that there was seemingly no allegation of an expression which could be deemed protected.

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

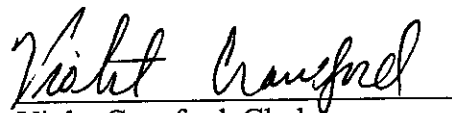
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 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 the 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:


Michele M. Young
1732 Augustine Place
Tallahassee, Florida 32301

Michael Wheeler, Esquire
Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399

Honorable Ella Jane P. Davis, 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