

1-30-04

STATE OF FLORIDA  
DIVISION OF RETIREMENT

FILED  
CLERK OF COURT  
MAY 15 2004  
11:30 AM  
TALLAHASSEE, FLORIDA

WILLIAM BRIGHT,  
Petitioner,

Final Order No. DMS-04-015

vs.

DOAH Case No. 03-2142  
DMS DOR No.: 03-15

CSH-CLOS

DEPARTMENT OF MANAGEMENT SERVICES,  
DIVISION OF RETIREMENT

AT

Respondent.

\_\_\_\_\_ /

FINAL ORDER  
PRELIMINARY STATEMENT

After being formally notified of the Division of Retirement's intent to deny his request for Option 2 retirement benefits, Mr. Bright timely filed a petition for hearing and the case was referred to the Division of Administrative Hearings.

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, Carolyn S. Holifield, held a formal hearing in the above-styled case on October 23, 2003, in Vierra, Florida.

At the formal proceeding, Petitioner offered his own testimony and that of Frank Abbate, Joanne Adams, Fannie Gray, and Kathryn Patterson. He offered 31 exhibits, 30 of which were admitted. Respondent offered the testimony of Deena Howell, Benefits Administrator, Division of Retirement and 18 exhibits, which were admitted. Respondent also offered the deposition testimony of Stanley Colvin and Frederica Edwards.

No transcript was ordered and the Parties filed their proposed Recommended Orders. A Recommended Order was issued January 30, 2004, which is incorporated by

reference into this Final Order. Exceptions to the Recommended Order have been filed by the Petitioner.<sup>1</sup>

#### STATEMENT OF THE ISSUES

The issue in this case is to determine whether William Bright should receive Option 2 retirement benefits due to the death of his son, Ronald Bright.

#### FINDINGS OF FACT

The Division of Retirement accepts the Findings of Fact set forth in the Recommended Order.

#### CONCLUSIONS OF LAW

The Division of Retirement accepts the Conclusions of Law as set forth in the Recommended Order.

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<sup>1</sup> Petitioner's Exception 1 is contrary to the record. No evidence was offered that any Division employee made any representation to either a county employee or to Petitioner that the County was authorized to act as agent for the Division. Petitioner's Exception 2 misses the point of the authority cited therein and in the Recommended Order. No evidence was presented that any Division employee made any representation that the County was authorized to act on its behalf. Petitioner's Exception 3 is incorrect pursuant to Chapter 26, Florida Statutes, which vests exclusive equitable jurisdiction in the Circuit Court. In any event, no evidence was offered to demonstrate that Petitioner relied on any representations by Division employees.

ORDER

Based on the foregoing, it is hereby ORDERED AND DIRECTED that the Florida Division of Retirement DENIES the request of the Petitioner, William Bright to receive Option 2 retirement benefits due to the death of his son, Ronald Bright.

DONE AND ORDERED this 2 day of April 2004, in Tallahassee, Leon County, Florida.

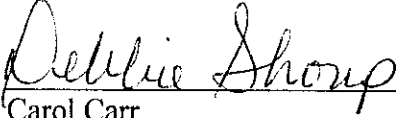


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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF MANAGEMENT SERVICES, 4050 ESPLANADE WAY, SUITE 260, TALLAHASSEE, FLORIDA 32399-0950, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

I HEREBY CERTIFY that this Final Order was filed in the official records of the Division of Retirement, and copies distributed by U.S. Mail to the parties below, on the 8 day of April, 2004.

  
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Carol Carr  
Clerk  
Department of Management Services

Copies furnished to:

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