

7-29-03

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
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TOMMIE L. WATKINS,

Petitioner,

v.

GREATER BETHEL AME CHURCH,

Respondent.

EEOC Case No. ^{AT}NON

FCHR Case No. 22-02911

DOAH Case No. 03-3219

FCHR Order No. 04-079

DIVISION OF
ADMINISTRATIVE
HEARINGS

FSR-CWS

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

Petitioner, TOMMIE L. WATKINS, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, GREATER BETHEL AME CHURCH, committed an unlawful employment practice by terminating him due to his marital status (single). The allegations set forth in the complaint were investigated and, on July 28, 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, via video teleconference in Tallahassee and Miami, Florida, on December 2, 2003, before Administrative Law Judge Florence Snyder Rivas.

Judge Rivas issued a Recommended Order of Dismissal dated February 24, 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

The Commission's file contains a transcript of the proceeding before the Administrative Law Judge as well as selected exhibits offered and entered into evidence at the proceeding.

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 ALJ found Petitioner was employed by Respondent from June 2000 through August 8, 2001. The ALJ further found that the Petitioner is gay and that his sexual orientation was known to his supervisor at all relevant times. The Petitioner alleged that he was terminated from his employment because of his marital status (single). His theory was that he sought election to the "Board of Examiners," a prerequisite for ordination as an AME clergyman, and was turned down because the then-sitting Bishop felt that gays seeking to serve in the AME ministry should at least to cover up their orientation by participating in a "sham" marriage. The ALJ found this theory to be speculative and unpersuasive. The ALJ further found no evidence that Respondent's decision to hire and later to fire Watkins was related to Watkins's marital status.

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

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a two page letter, dated March 10, 2004, in which he outlined three exceptions which reorders and reweighs the facts to support his view. He offers no evidence that the ALJ did not have substantial and competent evidence to support her determination of facts but rather challenges her order and weighing of the facts placed into evidence during the evidentiary hearing. He also raises no issues with any "conclusion of law."

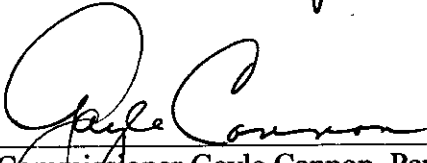
Based on the foregoing, Petitioner's exceptions are not accepted.

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 2nd day of July, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS



Commissioner Gayle Cannon, Panel Chairperson
Commissioner Billy Whitefox Stall
Commissioner Dominique B. Saliba, M.D.

Filed this 2nd day of July, 2004
in Tallahassee, Florida.

Violet Crawford
Violet Crawford, Clerk
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Honorable Florence Snyder Rivas, 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 2nd day of July, 2004.

BY: Violet Crawford
Clerk of the Commission
Florida Commission on Human Relations