

1-19-05

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

STEPHANIE FRANCIS,

EEOC Case No. 15DA300916

Petitioner,

FCHR Case No. 23-03058

v.

DOAH Case No. 04-0392

HOLMES REGIONAL MEDICAL CENTER

FCHR Order No. 05-020

JBC
CWS

Respondent.

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

Petitioner, STEPHANIE FRANCIS, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, HOLMES REGIONAL MEDICAL CENTER, committed an unlawful employment practice by terminating her due to her race and sex. The allegations set forth in the complaint were investigated and on December 4, 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, was granted a formal evidentiary hearing that was rescheduled the day before. She failed to attend that hearing; however, the Commission rejected the Recommended Order of Dismissal by the ALJ (FCHR # 04-138) and remanded the case for a hearing that was held in Viera, Florida, on December 14, 2004, before Administrative Law Judge Jeff B. Clark.

Judge Clark issued a Recommended Order to dismiss the complaint dated January 19, 2005.

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 no transcript of the proceeding before the Administrative Law Judge. In the absence of a transcript of the proceeding before the Administrative Law Judge, his Recommended Order is the only evidence for the Commission to consider. National Industries, Inc. vs. Commission on Human Relations, et al., 527 So. 2d 894, at 898 (Fla. 5th DCA 1988).

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 failed to establish a prima facie case of discrimination by failing to show that she was treated less favorably or differently than similarly situated persons outside her protected class. In fact, the Respondent further demonstrated legitimate, non-discriminatory reasons, including a progressive disciplinary process, for the termination.

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

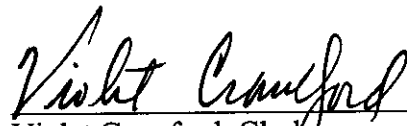
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 22nd day of February, 2005.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Donna Elam, Chairperson
Commissioner Roosevelt Paige
Commissioner Dominique B. Saliba

this 22nd day of February, 2005
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:

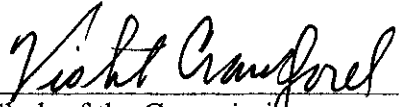
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Honorable Jeff B. Clark, Administrative Law Judge (DOAH)

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 22nd day of February, 2005.

BY: 
Clerk of the Commission
Florida Commission on Human Relations