

7-27-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
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BLANCA E. CARBIA,

Petitioner,

EEOC Case No. 15DA300146
FCHR Case No. 23-00127

v.

AT

DOAH Case No. 04-0420 BJS
Closed

COUNTY OF ALACHUA, FLORIDA,

Respondent.

FCHR Order No. 04-125

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

On October 29, 2002, 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 she was denied promotions, was subjected to a hostile working environment and, ultimately terminated because of her sex, national origin (Hispanic) and in retaliation. The allegations set forth in the complaint were investigated and on January 7, 2004, 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 April 29 and May 14, 2004.

Judge Barbara J. Staros issued a Recommended Order of Dismissal dated July 27, 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 Staros found that Petitioner was employed by Respondent as an animal control officer from December 1997 until her termination on October 2, 2002. The ALJ further found that the complaint focused on the Respondent's employing another female (white) officer in the interim position of acting Animal Services Field Supervisor. It did not include the ultimate hiring of the permanent supervisor who was a male not previously employed by the County. Although beyond the scope of the complaint, testimony was taken on both the temporary and permanent position hiring. The ALJ found that, although the Petitioner was qualified, there was evidence that both the acting and permanent supervisors had more relevant experience in supervisory capacity. The County offered legitimate business reasons for both failing to promote the Petitioner and, ultimately, terminating her following progressive discipline for violating County policies; particularly, those involving improper conduct and following verbal and written instructions by a supervisor. The ALJ concluded that the Petitioner did not offer any credible evidence she was discriminated against on the basis of gender or national origin; nor did she

offer any evidence expressly directed toward her retaliation claim. The ALJ further concluded that the Petitioner did not meet her 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.


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:


Bruce M. Smith, Esquire
LAW OFFICES OF BRUCE M. SMITH, P.A.
PO Box 450
Gainesville, Florida 32602-450

William E. Harlan, Esquire
Alachua County Attorney's Office
PO Box 2877
Gainesville, Florida 32602-2877

Honorable Barbara J. Staros, 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