

8-11-05

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

MATTHEW AVERY,

2005 SEP 23 PM 2:20

EEOC Case No. NONE

Petitioner,

FCHR Case No. 23-01418

v.

STATE OF FLORIDA  
ADMINISTRATIVE  
HEARINGS

DOAH Case No. 04-2862 *pmr  
C 10 Sec cl*

CITY OF PENSACOLA, FLORIDA,

*AT*

FCHR Order No. 05-108

Respondent.

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

Preliminary Matters

Petitioner Matthew Avery filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2001), alleging that Respondent City of Pensacola, Florida, committed an unlawful employment practice on the basis of Petitioner's disability (vision impairment) by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on July 8, 2004, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Pensacola, Florida, on April 18, 2005, before Administrative Law Judge P. Michael Ruff.

Judge Ruff issued a Recommended Order of dismissal, dated August 11, 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

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

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

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

The Petition 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 23<sup>rd</sup> day of September, 2005.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;  
Commissioner Gayle Cannon; and  
Commissioner Roosevelt Paige

Filed this 23<sup>rd</sup> day of September, 2005,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
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Copies furnished to:

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125 West Romana Street, Suite 150  
Pensacola, FL 32521

P. Michael Ruff, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 23<sup>rd</sup> day of September, 2005.

By: *Kristal Crawford*  
Clerk of the Commission  
Florida Commission on Human Relations