

1-25-05

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

KELVIN D. BODLEY,

Petitioner,

v.

ORANGE COUNTY, FLORIDA CODE
ENFORCEMENT DIVISION,

Respondent.

A1

2005 APR 22 15:36
EEOC Case No. ISDA 400732

FCHR Case No. 2004-21701

DOAH Case No. 04-3071

FCHR Order No. 05-042

DSM
CWS

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

Preliminary Matters

Petitioner Kelvin D. Bodley 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 Orange County, Florida Code Enforcement Division committed unlawful employment practices on the basis of Petitioner's race (Black), by subjecting Petitioner to different terms and conditions of employment, and by demoting and unfairly disciplining Petitioner, and by retaliating against Petitioner.

The allegations set forth in the complaint were investigated, and, on July 28, 2004, the Executive Director issued his "Determination: No Jurisdiction" finding that the Commission did not have jurisdiction over the complaint because the claims were raised and decided in a civil court proceeding.

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 on October 26, 2004, in Orlando, Florida, before Administrative Law Judge Daniel Manry, on the issue of whether the Commission had jurisdiction of the claims set out by Petitioner.

Judge Manry issued a Recommended Order of dismissal, dated January 25, 2005, concluding that the Commission did not have jurisdiction of the matter.

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

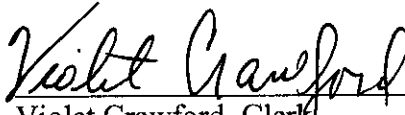
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 20th day of April, 2005.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Roosevelt Paige; and
Commissioner Dominique B. Saliba, M.D.

Filed this 20th day of April, 2005,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 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 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:

Kelvin D. Bodley
Post Office Box 680507
Orlando, FL 32686-0507

Orange County, Florida Code Enforcement Division
c/o Susan T. Spradley, Esq.
c/o Deborah L. La Fleur, Esq.
Gray Robinson, P.A.
Post Office Box 3068
Orlando, FL 32802

Daniel Manry, 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 20th day of April, 2005.

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