

2-24-05

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED

2005 APR 28 P 2:19

MICHAEL J. WELCH,

EEOC Case No. 15DA301131

Petitioner,

FCHR Case No. 23-03514  
DIVISION OF ADMINISTRATIVE HEARINGS

v.

DOAH Case No. 04-3184 *ASC closed*

RURAL METRO OF NORTH FLORIDA,  
INC.,

FCHR Order No. 05-047

Respondent.

*AT*

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

Preliminary Matters

Petitioner Michael J. Welch 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 Rural Metro of North Florida, Inc., committed unlawful employment practices on the basis of Petitioner's sex (sexual harassment), and on the basis of retaliation, ultimately leading to Petitioner's termination from employment.

The allegations set forth in the complaint were investigated, and, on July 28, 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 December 13, 2004, before Administrative Law Judge Robert S. Cohen.

Judge Cohen issued a Recommended Order of dismissal, dated February 24, 2005.

Pursuant to notice, public deliberations were held on April 19, 2005, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Petition for Relief.

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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Exception to Recommended Order."

The numbered paragraphs of the exceptions document review the corresponding numbered paragraphs of the Recommended Order, in most instances indicating whether Petitioner agrees or disagrees with the finding of fact or conclusion of law contained therein, and when in disagreement, an explanatory correction is set out. The disagreements take issue with the facts found and the inferences drawn from the evidence presented.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999).

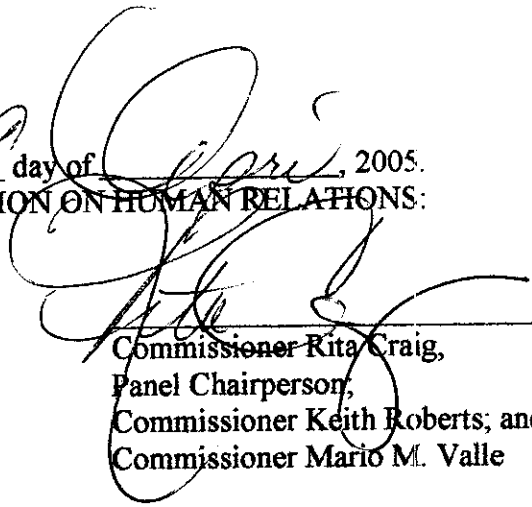
We reject Petitioner's exceptions.

#### Dismissal

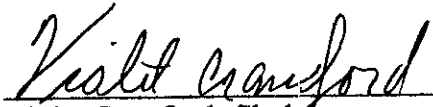
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 19<sup>th</sup> day of April, 2005.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

  
\_\_\_\_\_  
Commissioner Rita Craig,  
Panel Chairperson,  
Commissioner Keith Roberts; and  
Commissioner Mario M. Valle

Filed this 26<sup>th</sup> 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:


Michael J. Welch  
2060 Burjonik Lane  
Navarre, FL 32566-2118

Rural Metro of North Florida, Inc.  
c/o John B. Trawick, Esq.  
Shell, Fleming, Davis & Menge  
226 Palafox Place  
Post Office Box 1831  
Pensacola, FL 32591-1831

Robert S. Cohen, 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 26<sup>th</sup> day of April, 2005.

By:   
Clerk of the Commission  
Florida Commission on Human Relations