

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DOUGLAS RANDALL, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 05-1004  
 )  
 SACRED HEART )  
 HEALTH SYSTEMS, INC., )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

A hearing was held pursuant to notice, on May 23, 2005, in Pensacola, Florida, before the Division of Administrative Hearings by its designated Administrative Law Judge, Barbara J. Staros.

APPEARANCES

For Petitioner: Douglas Randall, pro se  
3108 North 6th Avenue  
Pensacola, Florida 32503

For Respondent: Erick M. Drlicka, Esquire  
Stacey N. Penn, Esquire  
Emmanuel, Sheppard & Condon  
30 South Spring Street  
Pensacola, Florida 32502

STATEMENT OF THE ISSUE

Whether Respondent violated the Florida Civil Rights Act of 1992, as alleged in the Charge of Discrimination filed by Petitioner on March 10, 2004.

PRELIMINARY STATEMENT

On March 10, 2004, Petitioner, Douglas Randall, filed a Charge of Discrimination with the Florida Commission on Human Relations (FCHR), which alleged that Sacred Heart Hospital violated Section 760.10, Florida Statutes (2004), by discriminating against him on the basis of race and for retaliation. The Charge of Discrimination alleged that he was given a written reprimand which prevented him from transferring positions, was given an unfair evaluation, and was placed on probation after complaining about disparate treatment.

The allegations were investigated, and on February 16, 2005, FCHR issued its determination of No Cause and Notice of Determination: No Cause.

A Petition for Relief was filed by Petitioner on March 16, 2005. In the Petition for Relief, Petitioner stated that he never complained about race and that race was never an issue but retaliation was. FCHR transmitted the case to the Division of Administrative Hearings on or about March 18, 2005. A Notice of Hearing was issued setting the case for formal hearing on May 23, 2005.

At hearing, Petitioner testified on his own behalf. Petitioner offered Exhibits numbered 1 through 4. Exhibits 1 and 4 were admitted into evidence. Exhibits 2 and 3 were

rejected. Respondent did not present any witnesses or offer any additional exhibits but did cross-examine Petitioner.

A Transcript, consisting of one volume, was filed on June 6, 2005. Respondent timely filed a Proposed Recommended Order which has been considered in the preparation of this Recommended Order.<sup>1/</sup> Petitioner did not file a post-hearing submission.

All references to Florida Statutes is to 2004 unless otherwise indicated.

#### FINDINGS OF FACT

1. Petitioner is an African-American man who was employed by Respondent from May 2003, until July 29, 2004.

2. Respondent, Sacred Heart Health Systems, operates a charitable, not for profit acute care hospital in Pensacola called Sacred Heart Hospital.

3. While employed at Sacred Heart Hospital, Petitioner was a call center resource agent. His supervisor was Jane Nix.

4. During cross-examination, Petitioner responded as follows when asked whether Respondent had discriminated against him on the basis of race:

Q: And is it fair to say that you truly believe that Sacred Heart did not discriminate against you because of your race at any time during your employment?

A: Yes, it is.

Q: And is it also true that Ms. Nicks [sic] did not discriminate against you because of your race at any time during your employment at Sacred Heart Hospital?

A: No, sir, she did not.

Q: Okay. Your race was never an issue at any time during your employment at Sacred Heart Hospital?

A: Not to my knowledge, no sir.

Q: You also never complained of discrimination based on race at any time during your employment at Sacred Heart Hospital; is that correct?

A: This is correct.

Q: And no one at Sacred Heart ever retaliated against you because of your race?

A: Not because of race, no sir.

Q: And you know this because you would not allow anybody to discriminate against you because of your race; is that correct?

A: This is correct.

Q: Or retaliate against you because of your race?

A: This is correct.

Q: And you do not believe that Sacred Heart violated the Florida Civil Rights Act; is that correct?

A: No, sir, I do not.

Q: And you do not believe that Sacred Heart violated the Florida Civil Rights Act; is that correct?

A: No, sir, I do not.

Q: And you do not believe that Ms. Nicks (sic) violated the Florida Civil Rights Act; is that correct?

A: No sir, I do not.

5. By his own admission, Petitioner does not allege discrimination or retaliation by Respondent on the basis of race.

#### CONCLUSIONS OF LAW

6. Section 760.10(1), Florida Statutes, states that it is an unlawful employment practice for an employer to discharge or otherwise discriminate against an individual on the basis of race.

7. Because there are no allegations that Respondent violated the Florida Civil Rights Act, there has been no unlawful employment practice committed as contemplated by Section 760.10, Florida Statutes.

8. Accordingly, the Florida Commission on Human Relations has no jurisdiction over this matter.

#### RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law set forth herein, it is

RECOMMENDED:

That the Florida Commission on Human Relations enter a final order dismissing the Petition for Relief for lack of jurisdiction.

DONE AND ENTERED this 11th day of July, 2005, in  
Tallahassee, Leon County, Florida.



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BARBARA J. STAROS  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 11th day of July, 2005.

ENDNOTE

<sup>1/</sup> Post-hearing submissions were due on June 16, 2005. Respondent's Proposed Recommended Order was docketed on June 29, 2005. However, counsel for Respondent filed documentation showing that Respondent's Proposed Recommended Order was successfully faxed to the Division of Administrative Hearings on June 9, 2005. The undersigned is satisfied that Respondent's Proposed Recommended Order was timely filed.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.