

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

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DIVISION OF
ADMINISTRATIVE
HEARINGS

DIANE SCOTT,

EEOC Case No. 150200500405

Petitioner,

FCHR Case No. 2005-01780

v.

DOAH Case No. 05-2057

MONROE COUNTY SCHOOL DISTRICT,

FCHR Order No. 06-066

Respondent.

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

Preliminary Matters

Petitioner Diane Scott filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2003), alleging that Respondent Monroe County School District committed an unlawful employment practice by terminating Petitioner from her position on the basis of retaliation and on the basis of race (not specified in complaint).

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.

Administrative Law Judge John G. Van Laningham issued an Order Relinquishing Jurisdiction, dated August 16, 2005, and an Order Closing File, dated August 17, 2005.

A Commission panel consisting of Commissioners Rita Craig, Donna Elam and Gilbert M. Singer considered the orders issued by Judge Van Laningham and issued an Order Remanding Petition for Relief from an Unlawful Employment Practice, dated November 3, 2005.

An evidentiary hearing was held on February 15, 2006, in Marathon, Florida, before Judge Van Laningham.

Judge Van Laningham issued a Recommended Order of dismissal, dated May 11, 2006.

Pursuant to notice, public deliberations were held on July 20, 2006, 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 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

Petitioner filed exceptions to the Recommended Order in a letter addressed to Florida Commission on Human Relations Chief Legal Counsel, Cecil Howard.

There is no indication on the exceptions filing that it was served on Respondent as is required by Fla. Admin. Code R. 28-106.110.

Generally, the document excepts to facts found, facts not found, and 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).

With regard to findings of fact set out in Recommended Orders, the Administrative Procedure Act states, "The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based on competent substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law." Section 120.57(1)(1); Florida Statutes (2005).

Petitioner's exceptions are rejected.

Dismissal

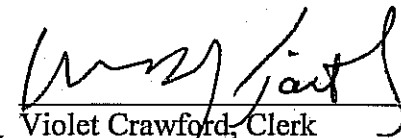
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 25th day of July, 2006.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Anice R. Prosser, Panel Chairperson;
Commissioner Shahrukh S. Dhanji; and
Commissioner Roosevelt Paige

Filed this 25th day of July, 2006,
in Tallahassee, Florida.



for Violet Crawford, Clerk
Commission on Human Relations
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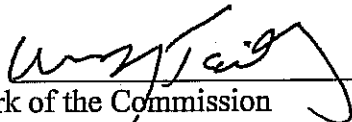
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John G. Van Laningham, Administrative Law Judge, DOAH

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 25th day of July, 2006.

By: 
Clerk of the Commission
Florida Commission on Human Relations