

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

2006 NOV 15 P 12:46

CRISTINA QUINTERO,

Petitioner,

v.

CITY OF CORAL GABLES,

Respondent.

EEOC Case No. NONE
DIVISION OF
ADMINISTRATIVE
HEARINGS
FCHR Case No. 06-0413

DOAH Case No. 06-0413

FCHR Order No. 06-100

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

Preliminary Matters

Petitioner, Cristina Quintero, filed a complaint of discrimination on June 7, 2005, pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11; Florida Statutes (2005), alleging that Respondent, City of Coral Gables, committed an unlawful employment practice on the basis of Petitioner's age, national origin, and disability by terminating Petitioner on July 16, 2004.

The allegations set forth in the complaint were investigated, and, on December 22, 2005, 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 alleging discrimination based on national origin only, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held on April 12, 2006, and May 3, 2006, via video teleconference in Miami and Tallahassee, Florida, before Administrative Law Judge Florence Snyder Rivas.

Judge Rivas issued a Recommended Order recommending dismissal of the complaint, dated September 14, 2006.

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 and Conclusions of Law

Judge Rivas found that Petitioner is a Hispanic female and was employed by Respondent in the police records department for almost 15 years prior to her July 16, 2004, termination. The ALJ further found that the Respondent, based on an internal affairs investigation instigated by Petitioner's supervisor, who happened also to be Hispanic, identified numerous errors

(“hundreds and hundreds’ of additional document processing errors”) and the failure of the Petitioner to report on a weekly basis her substantial “backlog” of pending document work as required by a written directive issued by that same supervisor in February 2004. In addition, the Petitioner was directed to give a sworn statement during the course of the internal affairs investigation which she refused to do. The refusal was also deemed to constitute insubordination by the Respondent.

At the conclusion of the internal affairs investigation, the Respondent found the Petitioner to be incompetent in performing her duties and, further, to be insubordinate in her failure to provide information required as to her backlog and her refusal to provide a sworn statement as requested. The ALJ found that the Petitioner failed to discredit the factual underpinnings of Respondent’s decision to terminate her employment; neither did she establish any discriminatory basis upon which Respondent terminated her employment.

The ALJ concluded that she failed to establish a prima facie case in that she did not prove that Respondent treated similarly situated employees more favorably; in fact, the Respondent hired a Hispanic to replace her. The ALJ further concluded that, assuming arguendo that Petitioner did establish a prima facie case, the Respondent established by preponderant, persuasive evidence that the basis for her termination was incompetence and insubordination. Petitioner did not demonstrate that these legitimate business reasons were pretextual.

We adopt the Administrative Law Judge’s findings of fact and her conclusion that a final order should be entered dismissing the Petition for Relief.

Exceptions

Neither party filed with the Commission 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 of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 13th day of November, 2006.

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Keith Roberts, Panel Chairperson;
Commissioner Dominique B. Saliba; and
Commissioner Gilbert M. Singer

Filed this 13th day of November, 2006,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

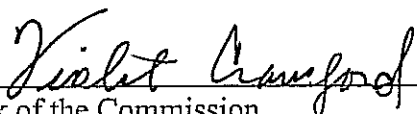
Cristina Quintero
4780 Northwest 2nd Street
Miami, Florida 33126

David C. Miller, Esquire
AKERMAN SENTERFITT
Sun Trust International Center, 28th Floor
One Southeast Third Avenue
Miami, Florida 33131

Florence Snyder Rivas, Administrative Law Judge, DOAH

Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 13th day of November, 2006.

By: 

Clerk of the Commission
Florida Commission on Human Relations