

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS

LYNETTE BROWN,

EEOC Case No. 15D200700165

Petitioner,

FCHR Case No. 2006-02448

v.

DOAH Case No. 07-3120

DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES,

FCHR Order No. 09-005

Respondent.

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

Preliminary Matters

Petitioner Lynette Brown filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2005), alleging that Respondent Department of Highway Safety and Motor Vehicles committed unlawful employment practices on the bases of Petitioner's race (Black) and age (DOB: 1/12/50) when it denied Petitioner promotions, harassed, and terminated Petitioner, and on the basis of retaliation when it terminated Petitioner.

The allegations set forth in the complaint were investigated, and, on June 1, 2007, 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 on June 18 and 19, 2008, in Tallahassee, Florida, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order of dismissal, dated October 21, 2008.

Pursuant to notice, public deliberations were held on January 9, 2009, 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 200, 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 Administrative Law Judge's Recommended Order in a document entitled, "Petitioner, Lynette Brown's, Exceptions to the Recommended Order and Supporting Arguments," received by the Commission on November 3, 2008. The document contains 25 numbered exceptions paragraphs.

In each instance the exception presented takes issue with facts found (1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25), facts not found (10, 12, 19, 25), and / or inferences drawn (1, 2, 4, 7, 9, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24) from the evidence presented, and / or takes issue with credibility determinations made by the Administrative Law Judge (5, 6, 8, 12, 17, 24) and / or simply presents argument (2, 19). [Numbers reference "Exception Numbers" contained in Petitioner's exceptions document.]

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). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

Petitioner's exceptions are rejected.

Dismissal

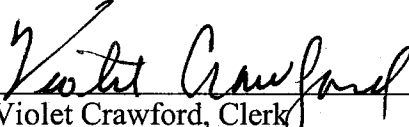
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 13th day of January, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Anice R. Prosser; and
Commissioner Billy Whitefox Stall

Filed this 13th day of January, 2009,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 200
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:

Lynette Brown
c/o H. Richard Bisbee, Esq.
c/o Patrick R. Frank, Esq.
H. Richard Bisbee, P.A.
1882 Capital Circle Northeast, Suite 206
Tallahassee, FL 32308

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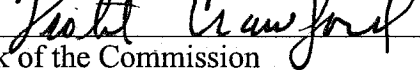
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Department of Highway Safety and Motor Vehicles
c/o Glen A. Bassett, Esq.
c/o Kara J. Berlin, Esq.
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, FL 32308

Suzanne F. Hood, 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 13th day of January, 2009.

By: 
Clerk of the Commission
Florida Commission on Human Relations