

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ALBERT J. BEDDY,

Petitioner,

v.

FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION,

Respondent.

EEOC Case No. NONE

FCHR Case No. 2007-0156

DOAH Case No. 07-4769

FCHR Order No. 08-034

FILED
2008 JUN -4 P 1:29
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

Preliminary Matters

Petitioner Albert J. Beddy 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 Florida Fish and Wildlife Conservation Commission committed an unlawful employment practice on the bases of Petitioner's race (white) and age (DOB: 4-19-40) by failing to hire Petitioner for a position for which he had applied.

The allegations set forth in the complaint were investigated, and, on September 13, 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 in Tallahassee, Florida, on February 5, 2008, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order of dismissal, dated April 8, 2008.

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

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 a notice with the Division of Administrative Hearings, after the issuance of the Recommended Order, indicating to Judge Cleavinger that, "I do not accept your order and opinion."

We note that the filing does not indicate that it was served on Respondent by Petitioner as is required by Fla. Admin. Code R. 28-106.104(2)(f) and (4), and Fla. Admin. Code R. 28-106.110, nor does it specifically address the findings of fact and conclusions of law found in the Recommended Order (see Section 120.57(1)(k), Florida Statutes (2007)).

We decline to consider this filing an exceptions document. Accord, generally, Conte v. C.J. Food Markets, Inc., FCHR Order No. 08-016 (February 8, 2008), Rodriguez v. Center Point Health and Rehab, FCHR Order No. 08-001 (January 14, 2008), and Coleus v. Walt Disney World, FCHR Order No. 02-029 (July 25, 2002).

Respondent filed an exceptions document received by the Commission on April 23, 2008, containing two numbered exceptions to the Recommended Order, neither of which except to the ultimate outcome of the case recommended by the Administrative Law Judge.

The first exception essentially takes issue with an inference drawn by the Administrative Law Judge from the evidence presented, and consequently, is rejected. The second exception takes note of a scrivener's error in the Recommended Order as to the name of the person who was the successful candidate for the position in question, and the requested correction is hereby noted.

Dismissal

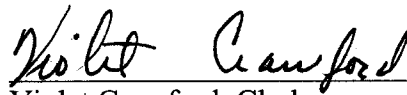
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 2nd day of June, 2008.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Gilbert M. Singer; and
Commissioner Mario M. Valle

Filed this 2nd day of June, 2008,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
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Copies furnished to:


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c/o Emily J. Norton, Esq.
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Tallahassee, FL 32399-1600

Diane Cleavinger, 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 2nd day of June, 2008.

By: 
Clerk of the Commission
Florida Commission on Human Relations