

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JIMMY O. GATHERS,

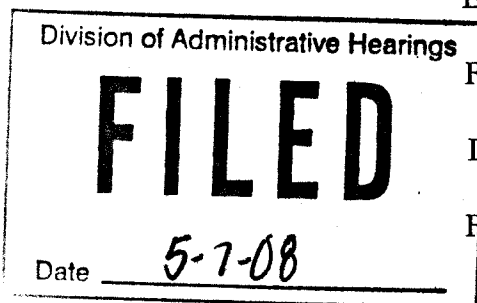
Petitioner,

v.

DEL-JIN,

Respondent.

EEOC Case No. 15D200700338



FCHR Case No. 2007-00183

DOAH Case No. 07-4827

FCHR Order No. 08-026

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

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated March 5, 2008, issued in the above-styled matter by Administrative Law Judge P. Michael Ruff.

Findings of Fact and Conclusions of Law

Judge Ruff's order reflects that Petitioner failed to appear at the scheduled administrative hearing in the matter and that, therefore, Petitioner failed to meet his burden of putting on evidence of alleged racial discrimination in the employment practices of Respondent. Consequently, Judge Ruff recommended the Commission issue a final order dismissing the matter.

Commission panels have concluded that when a Petitioner fails to appear at the scheduled administrative hearing in their case, they fail to meet their burden of proof, and the Petition for Relief should be dismissed. See, e.g., Rodriguez v. Center Point Health and Rehab, FCHR Order No. 08-001 (January 14, 2008), West v. Sembler Corporation, d/b/a Bay Walk, FCHR Order No. 07-037 (June 15, 2007), Martinez v. KJC Enterprises, d/b/a Plantation Island Resort, FCHR Order No. 07-028 (April 20, 2007), Chaney, et al. v. Robert Buckner & Associates, FCHR Order No. 06-092 (November 13, 2006), and Prek v. Workforce Central Florida, FCHR Order No. 06-079 (September 18, 2006).

We adopt the Administrative Law Judge's finding as to the nonappearance of Petitioner and conclude that Petitioner has failed to carry his burden of proof.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order of Dismissal.

Dismissal

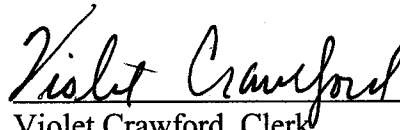
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 6th day of May, 2008.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Anice R. Prosser; and
Commissioner Gilbert M. Singer

Filed this 6th day of May, 2008,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
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:

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621 Maine Avenue
Panama City, FL 32401

Del-Jin
c/o M. Kristen Allman, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
100 North Tampa Street, Suite 3600
Tampa, FL 33602

P. Michael Ruff, 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 6th day of May, 2008.

By: *Kristel Crawford*
Clerk of the Commission
Florida Commission on Human Relations