

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

MICHELE PRICE,

Petitioner,

.v.

FLAGLER COUNTY SCHOOLS,

Respondent.

EEOC Case No. 15D200700578

FCHR Case No. 2007-01380

DOAH Case No. 07-5677

FCHR Order No. 08-067

FILED  
2008 NOV -3 P 2:26  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

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

Preliminary Matters

Petitioner Michele Price 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 Flagler County Schools committed unlawful employment practices on the basis of Petitioner's sex (female) by subjecting Petitioner to sexual harassment, and on the basis of retaliation by reassigning Petitioner to an undesirable position for having complained about the alleged sexual harassment, which allegedly resulted in Petitioner's constructive discharge.

The allegations set forth in the complaint were investigated, and, on November 14, 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 April 16-18, 2008, and May 21-23, 2008, in Bunnell, Florida, before Administrative Law Judge Lisa Shearer Nelson.

Judge Nelson issued a Recommended Order of dismissal, dated August 8, 2008.

Pursuant to notice, public deliberations were held on October 29, 2008, 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 received by the Commission on August 25, 2008.

Petitioner's exceptions document contains exceptions paragraphs numbered 1 through 36 (there is no paragraph 12). In each instance, the exceptions paragraph takes issue with facts found (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 30, 34, 35, and 36), facts not found (2, 11, 22, and 26), and / or inferences drawn from the evidence presented (2, 5, 11, 14, 15, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, and 35). -- [numbers are references to the numbered paragraphs 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).

Based on the foregoing, Petitioner's exceptions are rejected.

### Dismissal

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

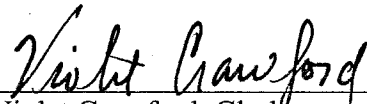
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right

to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 30<sup>th</sup> day of October, 2008.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Anice R. Prosser, Panel Chairperson;  
Commissioner Watson Haynes, II; and  
Commissioner Mario M. Valle

Filed this 30<sup>th</sup> day of October, 2008,  
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:

Michele Price  
16 Burma Place  
Palm Coast, FL 32137

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Flagler County Schools  
c/o Kristy J. Gavin, Esq.  
Gobelman, Love, Gavin,  
Wasilenko & Broughan, LLC  
815 South Main Street, Suite 300  
Jacksonville, FL 32207

Lisa Shearer Nelson, 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 30<sup>th</sup> day of October, 2008.

By: Violet Crawford  
Clerk of the Commission  
Florida Commission on Human Relations