

**DATE FILED**

**MAR 11 2009**

**COMMISSION ON ETHICS**

**FILED**

**BEFORE THE  
STATE OF FLORIDA  
COMMISSION ON ETHICS**

**2009 MAR 16 A 10:56**

In re **CORETTA UDELL-FORD,** )  
          **DIVISION OF** )  
          **ADMINISTRATIVE** )  
          **HEARINGS** )  
          Respondent. )  
\_\_\_\_\_ )

Complaint No. 06-277  
DOAH Case No. 08-2725-EC  
COE Final Order No. 09-042

**FINAL ORDER**

This matter comes before the Commission on Ethics, meeting in public session on March 6, 2009, pursuant to the Recommended Order of the Division of Administrative Hearings' Administrative Law Judge rendered in this matter on January 29, 2009. The Recommended Order (a copy of which is attached and incorporated herein by reference), recommends that the Commission enter a final order finding that Coretta Udell-Ford violated Section 112.313(6), Florida Statutes, and recommending imposition of a public reprimand and a civil penalty of \$7,500.

**BACKGROUND**

This matter began with the filing of an ethics complaint in 2006 alleging that the Respondent, Coretta Udell-Ford, a member of the White Springs City Council, after being stopped for having a broken tag light by the Complainant, a White Springs police officer, asked the officer, "do you know who I am?," and stated, "You may not know who I am tonight, but you will know who I am tomorrow morning." Subsequently according to the Complainant, the Respondent attempted to have the Chief of Police terminate the Complainant's employment. The allegations were found to be legally sufficient and Commission staff undertook a preliminary investigation to aid in the determination of probable cause. On June 13, 2007, the Commission

issued an Order finding probable cause to believe that the Respondent violated Section 112.313(6), Florida Statutes, by using her position as a member of the City Council to intimidate or attempt to intimidate a City police officer in retaliation for a traffic stop the officer made on the Respondent.

The matter was then forwarded to the Division of Administrative Hearings (DOAH) for assignment of an Administrative Law Judge (ALJ) to conduct the formal hearing and prepare a recommended order. Prior to the hearing the parties each submitted Unilateral Prehearing Statements, and a formal evidentiary hearing was held before the ALJ on October 30 and 31, 2008. A transcript was filed with the ALJ and the parties timely filed a Proposed Recommended Orders. The ALJ's Recommended Order was transmitted to the Commission, the Respondent, and the Advocate on January 29, 2009, and the parties were notified of their right to file exceptions to the Recommended Order. No Exceptions were filed.

Having reviewed the Recommended Order and the record of the proceedings, the Commission makes the following findings, conclusions, rulings and determinations:

#### **STANDARDS FOR REVIEW**

Under Section 120.57(1)(l), Florida Statutes, an agency may not reject or modify findings of fact made by the ALJ unless a review of the entire record demonstrates that the findings were not based on competent, substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law. See, e.g., Freeze v. Dept. of Business Regulation, 556 So. 2d 1204 (Fla. 5th DCA 1990); and Florida Department of Corrections v. Bradley, 510 So. 2d 1122 (Fla. 1st DCA 1987). Competent, substantial evidence has been defined by the Florida Supreme Court as such evidence as is "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusions reached."

DeGroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957).

The agency may not reweigh the evidence, resolve conflicts therein, or judge the credibility of witnesses, because those are matters within the sole province of the ALJ. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). Consequently, if the record of the DOAH proceedings discloses any competent, substantial evidence to support a finding of fact made by the ALJ, the Commission is bound by that finding.

Under Section 120.57(1)(l), Florida Statutes, an agency may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusions of law or interpretations of administrative rules, the agency must state with particularity its reasons for rejecting or modifying such conclusions of law or interpretations of administrative rules and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. An agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefore in the order, by citing to the record in justifying the action.

#### **FINDINGS OF FACT**

The Findings of Fact as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

#### **CONCLUSIONS OF LAW**

1. The Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

2. Accordingly, the Commission on Ethics concludes that the Respondent, as a member of the White Springs Town<sup>1</sup> Council, violated Section 112.313(6), Florida Statutes, by using her position as a member of the Town Council to intimidate or attempt to intimidate a police officer in retaliation for a traffic stop the officer made on the Respondent.

**RECOMMENDED PENALTY**

The ALJ's recommendation of a public reprimand and a civil penalty in the amount of \$7,500 for the Respondent's violation of Section 112.313(6), Florida Statutes, is accepted.

DONE and ORDERED by the State of Florida Commission on Ethics meeting in public session on Friday, March 6, 2009.

*March 11, 2009*

Date Rendered

*Cheryl Forchilli*

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Chair

THIS ORDER CONSTITUTES FINAL AGENCY ACTION. ANY PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER HAS THE RIGHT TO SEEK JUDICIAL REVIEW UNDER SECTION 120.68, FLORIDA STATUTES, BY FILING A NOTICE OF ADMINISTRATIVE APPEAL PURSUANT TO RULE 9.110 FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE CLERK OF THE COMMISSION ON ETHICS, 3600 MACLAY BOULEVARD SOUTH, SUITE 201, P.O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709; AND BY FILING A COPY OF THE NOTICE OF APPEAL ATTACHED TO WHICH IS A CONFORMED COPY OF THE ORDER DESIGNATED IN THE NOTICE OF APPEAL ACCOMPANIED BY THE APPLICABLE FILING FEES WITH THE APPROPRIATE DISTRICT COURT OF APPEAL. THE NOTICE OF ADMINISTRATIVE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE DATE THIS ORDER IS RENDERED.

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<sup>1</sup> The ALJ found that pursuant to its Charter, White Springs is a Town, rather than a City.

cc: Mr. Charles Lynn Webb, Counsel for Respondent  
Mr. James H. Peterson, III, Commission Advocate  
Mr. Christopher M. Rexford, Complainant  
The Honorable Suzanne F. Hood, Administrative Law Judge  
Division of Administrative Hearings