

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED

2009 OCT 28 A 10:45

LAURA A. WESTBROOKS,

EEOC Case No. 150200890050

Petitioner,

FCHR Case No. 2009-01240

v.

DOAH Case No. 09-1968

CITY OF NORTH MIAMI,

FCHR Order No. 09-102

Respondent.

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

Preliminary Matters

Petitioner Laura A. Westbrook filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondent City of North Miami committed an unlawful employment practice on the basis of Petitioner's race (Black) by failing to promote Petitioner to the position of Accountant.

The allegations set forth in the complaint were investigated by the Equal Employment Opportunity Commission.

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 by video teleconference at sites in Miami and Tallahassee, Florida, on June 18, 2009, before Administrative Law Judge Errol H. Powell.

Judge Powell issued a Recommended Order of dismissal, dated September 1, 2009.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Hall v. Villages of West Oaks HOA, FCHR 08-007 (January 14, 2008), Beach-Gutierrez v. Bay

Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004).

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

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

Dismissal

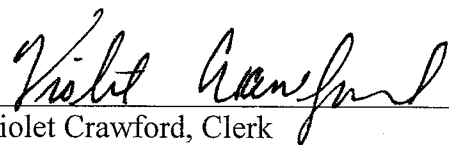
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 26<sup>th</sup> day of October, 2009.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Lizzette Gamero; and  
Commissioner Billy Whitefox Stall

Filed this 26<sup>th</sup> day of October, 2009,  
in Tallahassee, Florida.

  
\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 200  
Tallahassee, FL 32301  
(850) 488-7082

Copies furnished to:

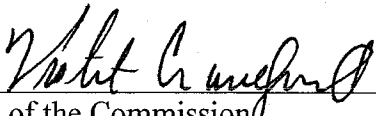
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Errol H. Powell, Administrative Law Judge, DOAH

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 26<sup>th</sup> day of October, 2009.

By:   
Clerk of the Commission  
Florida Commission on Human Relations