

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

2011 JUL 14 P 12:04

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

PETER D. TYLER,

Petitioner,

v.

WALT DISNEY WORLD,

Respondent.

EEOC Case No. NONE

FCHR Case No. 2009-00241

DOAH Case No. 09-2547

FCHR Order No. 11-056

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

Preliminary Matters

Petitioner Peter D. Tyler 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 Walt Disney World committed unlawful employment practices on the basis of Petitioner's disability by refusing to hire Petitioner, by refusing to provide an interpreter to assist Petitioner in communicating with Respondent's representatives and by issuing a trespass warning against Petitioner. In addition, Petitioner alleged he experienced unlawful retaliation when he was arrested for trespassing on Respondent's property.

The allegations set forth in the complaint were investigated, and, on April 8, 2009, 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 Orlando, Florida, on October 29, 2010, before Administrative Law Judge Susan B. Harrell.

Judge Harrell issued a Recommended Order of dismissal, dated April 20, 2011.

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

On May 5, 2011, the Commission granted Petitioner an extension of time until May 16, 2011, to file exceptions to the Recommended Order. On May 16, 2011, Petitioner filed a "Motion for Enlargement of Time" dealing with issues other than the filing of exceptions. In ruling on that motion, on May 26, 2011, the Commission extended the time for filing exceptions in this case until close-of-business on June 7, 2011.

Petitioner filed exceptions to the Recommended Order in a document entitled "Exceptions to Recommended Order."

Petitioner's document appears to deal with issues outside the parameters of the findings of fact and conclusions of law set out in the Recommended Order, but it also appears that it can generally be said that Petitioner excepts to the outcome recommended by the Recommended Order.

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).

Further, it has been stated, "The ultimate question of the existence of discrimination is a question of fact." Florida Department of Community Affairs v. Bryant, 586 So. 2d 1205, at 1209 (Fla. 1<sup>st</sup> DCA 1991). Accord, Coley v. Bay County Board of County Commissioners, FCHR Order No. 10-027 (March 17, 2010).

Noting that we have above found the facts as found by the Administrative Law Judge to be supported by competent substantial evidence and the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter, Petitioner's exceptions are rejected.

Dismissal

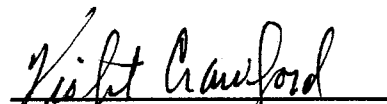
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 13th day of July, 2011.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Watson Haynes, II; and  
Commissioner Billy Whitefox Stall

Filed this 13th day of July, 2011,  
in Tallahassee, Florida.

  
\_\_\_\_\_  
Violet Crawford, Clerk

Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082

Copies furnished to:

Peter D. Tyler  
Post Office Box 22315  
Lake Buena Vista, FL 32830

Walt Disney World  
c/o Marilyn G. Moran, Esq.  
Baker & Hostetler  
Suntrust Center, Suite 2300  
200 South Orange Avenue  
Orlando, FL 32802

FCHR Order No. 11-056

Page 4

Susan B. Harrell, 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 13th day of July, 2011.

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