

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

NICHOLAS ORSINO,

Petitioner,

v.

FLORIDA HIGHWAY PATROL,

Respondent.

EEOC Case No. 15D200900166

FCHR Case No. 2009-00418

DOAH Case No. 09-3097

FCHR Order No. 09-114

FILED
2009 DEC 15 A 10:42
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

This matter is before the Commission for consideration of the Order Closing File, dated October 2, 2009, issued in the above-styled matter by Administrative Law Judge Stuart M. Lerner.

Findings of Fact and Conclusions of Law

Judge Lerner's order reflects that Petitioner failed to comply with an order of the Administrative Law Judge. Specifically, in an earlier-issued Order Granting Continuance and Placing Case in Abeyance, Judge Lerner directed the parties to advise him of the status of the case, in writing, no later than September 28, 2009. Judge Lerner indicated that failure to do so would result in the conclusion that the matter had been amicably resolved and the file of the Division of Administrative Hearings would be closed. Neither party filed a status report as ordered, and, therefore, Judge Lerner closed the file of the Division of Administrative Hearings, recommending that the Commission enter a final order reflecting "that this cause has been amicably resolved."

We note that, generally, Commission panels have concluded that a Petitioner's failure to respond to orders of an Administrative Law Judge amounts to a voluntary dismissal of the Petition for Relief. See, generally, Biggers v. Rooms To Go, FCHR Order No. 09-045 (May 12, 2009), Shook v. Riverside National Bank, FCHR Order No. 08-029 (May 6, 2008), Butler v. The Pepsi Bottling Group, FCHR Order No. 06-107 (December 4, 2006), Castellanos v. Express Net Airlines Pilots Association, FCHR Order No. 05-061 (June 15, 2005), Mayfield v. Karl's Haberdashery of Florida, Inc., FCHR Order No. 04-020 (March 10, 2004), and Kenny v. Florida Department of Corrections, FCHR Order No. 02-020 (June 3, 2002).

Based on the foregoing, we conclude that the Petition for Relief should be dismissed.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Order Closing File.

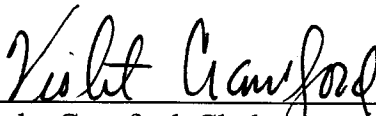
Dismissal

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 14th day of December, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy Whitefox Stall, Panel Chairperson;
Commissioner Elena Flom; and
Commissioner Lizzette Gamero

Filed this 14th day of December, 2009,
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:

Nicholas Orsino
c/o Cathleen Scott, Esq.
Cathleen Scott, P.A.
Jupiter Gardens
250 South Central Boulevard, Suite 104-A
Jupiter, FL 33458

Florida Highway Patrol
c/o Sandra Coulter, Esq.
Neil Kirkman Building
2900 Apalachee Parkway, A432
Tallahassee, FL 32399-0504

Stuart M. Lerner, 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 14th day of December, 2009.

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