

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

CHRISTINE LEINONEN,

EEOC Case No. 15D20120808

Petitioner,

FCHR Case No. 2012-02710

v.

DOAH Case No. 13-0826

OFFICE OF CRIMINAL CONFLICT  
AND CIVIL REGIONAL COUNSEL,

FCHR Order No. 13-061

Respondent.

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

Preliminary Matters

Petitioner Christine Leinonen filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2012), alleging that Respondent Office of Criminal Conflict and Civil Regional Counsel committed unlawful employment practices on the basis of Petitioner's handicap / disability by failing to provide Petitioner a reasonable accommodation and by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on February 28, 2013, the Executive Director issued a 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 by video teleconference at sites in Lakeland and Tallahassee, Florida, on May 17, 2013, before Administrative Law Judge John D. C. Newton, II.

Judge Newton issued a Recommended Order of dismissal, dated July 25, 2013.

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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioner's Exceptions to ALJ Filed Recommended Order," received by the Commission on July 30, 2013.

Petitioner's exceptions document contains two exceptions: Petitioner excepts to the Administrative Law Judge's conclusion that the evidence did not establish that her bruised heel was a handicap (Recommended Order, ¶ 50); and Petitioner excepts to the Administrative Law Judge's conclusion that Petitioner was discharged because of the kerfuffle arising from wearing a garment (Recommended Order, ¶ 51).

In our view, these two exceptions take issue with facts found and inferences drawn from the evidence presented.

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) and Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011).

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 12<sup>th</sup> day of September, 2013.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;  
Commissioner Michael Keller; and  
Commissioner Lizzette Romano

Commissioner Keller dissents to the Administrative Law Judge's conclusion that the evidence does not establish that Petitioner's bruised heel was a handicap.

Filed this 12<sup>th</sup> day of September, 2013,  
in Tallahassee, Florida.

\_\_\_\_\_/s/\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
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John D. C. Newton, II, 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 12<sup>th</sup> day of September, 2013.

By: \_\_\_\_\_/s/\_\_\_\_\_  
Clerk of the Commission  
Florida Commission on Human Relations