

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DAVID C. WADE,

Petitioner,

vs.

Case No. 14-4652

DISTRICT SCHOOL BOARD OF PUTNAM  
COUNTY,

Respondent.

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RECOMMENDED ORDER OF DISMISSAL

Administrative Law Judge Edward T. Bauer held a final hearing in this case by video teleconference between sites in Tallahassee and Gainesville, Florida, on December 15, 2014.

APPEARANCES

For Petitioner: No appearance

For Respondent: No appearance

STATEMENT OF THE ISSUES

Whether Respondent committed the unlawful employment practices alleged in the Charge of Discrimination filed with the Florida Commission on Human Relations ("FCHR") and, if so, what relief should Petitioner be granted.

PRELIMINARY STATEMENT

On April 10, 2014, Petitioner filed a Charge of Discrimination ("Complaint") with FCHR alleging: that the

District School Board of Putnam County ("Respondent") refused to hire him because of his age; and that Respondent retaliated against him after he objected to the discriminatory treatment. Following its investigation of the Complaint, FCHR notified the parties that there was "no reasonable cause to believe that an unlawful employment practice occurred."

Petitioner elected to pursue administrative remedies, timely filing a Petition for Relief with FCHR on or about October 1, 2014. Subsequently, on October 6, 2014, FCHR referred the matter to the Division of Administrative Hearings ("DOAH") for further proceedings. The remainder of this case's procedural history is contained in the following Findings of Fact.

#### FINDINGS OF FACT

1. By Notice dated October 16, 2014, the final hearing was scheduled for December 15, 2014, at 9:30 a.m.

2. Although the undersigned convened the final hearing on the date and time indicated in the Notice, neither Petitioner nor counsel for Respondent was present.

3. As of 10:00 a.m., Petitioner had not appeared or contacted DOAH. At that point, the undersigned announced that, in light of Petitioner's nonappearance, the hearing would be adjourned and that a recommended order of dismissal would issue.

CONCLUSIONS OF LAW

4. DOAH has personal and subject matter jurisdiction in this proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes (2014).

5. The Florida Civil Rights Act of 1992 ("the FCRA"), chapter 760, Florida Statutes, prohibits discrimination in the workplace. In relevant part, the FCRA provides:

(1) It is an unlawful employment practice for an employer:

(a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status.

\* \* \*

(7) It is an unlawful employment practice for an employer, an employment agency, a joint labor-management committee, or a labor organization to discriminate against any person because that person has opposed any practice which is an unlawful employment practice under this section, or because that person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

§ 760.10(1)(a) & (7), Fla. Stat.

6. As noted previously, the Complaint alleges that Respondent violated the foregoing provisions by refusing to hire Petitioner because of his age, and by engaging in retaliation

after Petitioner objected to the discriminatory treatment. Petitioner bears the burden of proof as to each issue. See Kidd v. Mando Am. Corp., 731 F.3d 1196, 1202 (11th Cir. 2013); Hairston v. Gainesville Sun Publ'g Co., 9 F.3d 913, 919 (11th Cir. 1993).

7. Petitioner failed to present direct or circumstantial evidence tending to prove that Respondent committed the unlawful acts of discrimination alleged in the Complaint. Consequently, the Petition for Relief must be dismissed. See Dotson v. Dep't of Fin. Servs., DOAH Case No. 09-2386 (Fla. DOAH Jan. 26, 2011; FCHR Apr. 13, 2011) (dismissing petition for relief where petitioner failed to appear at final hearing).

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Florida Commission on Human Relations enter a final order dismissing the Petition for Relief.

DONE AND ENTERED this 16th day of December, 2014, in  
Tallahassee, Leon County, Florida.



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EDWARD T. BAUER  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 16th day of December, 2014.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.