

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

LAKIJA MILLER,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2014-00651

v.

DOAH Case No. 14-5353

WAL-MART SUPERCENTER,

FCHR Order No. 16-015

Respondent.

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

This matter is before the Commission for consideration of the Order Granting Motion for Sanctions and Recommended Order of Dismissal, dated January 12, 2016, issued in the above-styled matter by Administrative Law Judge William F. Quattlebaum.

Findings of Fact and Conclusions of Law

Judge Quattlebaum's Order dismisses the case because of Petitioner's failure to cooperate in discovery.

The Administrative Procedure Act states, "The presiding officer has the power...to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt." Section 120.569(2)(f), Florida Statutes (2015).

The applicable administrative rule states, "The presiding officer may issue appropriate orders to effectuate the purposes of discovery and to prevent delay, including the imposition of sanctions in accordance with the Florida Rules of Civil Procedure, except contempt." Fla. Admin. Code R. 28-106.206.

The Florida Rules of Civil Procedure specifically provide for sanctions in instances in which a party fails to comply with discovery. See, Fla. R. Civ. P. 1.380. The sanctions possible for a party's failure to comply with discovery include "...dismissing the action or proceeding, or any part of it..." Fla. R. Civ. P. 1.380(b)(2)(C).

Based on the foregoing, we note the Administrative Law Judge's finding regarding Petitioner's failure to comply with discovery and the sanction of dismissal imposed by the Administrative Law Judge, and conclude the Petition for Relief should be dismissed.

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Order Granting Motion for Sanctions and Recommended Order of Dismissal in a document entitled, "Petitioner's Opposition and Exceptions to Order Granting Motion for Sanctions and Recommended Order of Dismissal."

In response, Respondent filed "Respondent Wal-Mart Supercenter's Response to Petitioner's Opposition and Exceptions to Order Granting Motion for Sanctions and Recommended Order of Dismissal."

Petitioner's exceptions document argues that the sanction of dismissal is not appropriate in this matter.

For reasons discussed in the Findings of Fact and Conclusions of Law section of this order, above, Petitioner's exceptions are rejected.

Dismissal

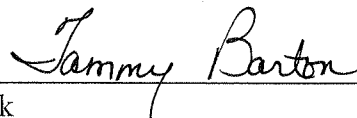
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 7 day of April, 2016.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Tony Jenkins; and
Commissioner Jay Pichard

Filed this 7 day of April, 2016,
in Tallahassee, Florida.



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William F. Quattlebaum, 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 17 day of April, 2016.

By: Tammy Barton
Clerk of the Commission
Florida Commission on Human Relations