

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ALICIA VALENTINE,

Petitioner,

vs.

Case No. 16-3951

CATHOLIC CHARITIES OF THE  
ARCHDIOCESE,

Respondent.

\_\_\_\_\_ /

RECOMMENDED ORDER

This case came before Administrative Law Judge John G. Van Laningham for final hearing by video teleconference on November 3, 2016, at sites in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: Alicia Valentine, pro se  
211 South Clark Street, Suite A3382  
Chicago, Illinois 60690

For Respondent: Thomas H. Courtney, Esquire  
J. Patrick Fitzgerald & Associates, P.A.  
110 Merrick Way, Suite 3-B  
Coral Gables, Florida 33134

STATEMENT OF THE ISSUE

The issue in this case is whether Respondent unlawfully discriminated against Petitioner on the basis of her race or sex in violation of the Florida Fair Housing Act.

PRELIMINARY STATEMENT

In a Housing Discrimination Complaint filed with the U.S. Department of Housing and Urban Development on or around March 7, 2016, and subsequently investigated by the Florida Commission on Human Relations ("FCHR"), Petitioner Alicia Valentine alleged that Respondent Catholic Charities of the Archdiocese of Miami, Inc., a charitable organization, had unlawfully discriminated against her on the basis of race or sex by refusing to give her rental assistance under the same terms and conditions applicable to others who sought such relief.

The FCHR investigated Ms. Valentine's claims and, on June 9, 2016, issued a notice setting forth its determination that reasonable cause did not exist to believe that a discriminatory housing practice had occurred. Thereafter, Ms. Valentine filed a Petition for Relief, which the FCHR transmitted to the Division of Administrative Hearings ("DOAH") on June 12, 2016.

After a continuance requested by Ms. Valentine, the final hearing took place on November 3, 2016. Ms. Valentine appeared by telephone and testified on her own behalf. She also submitted, via email, dozens of emails, which were received into evidence as Petitioner's Composite Exhibit 1 over Respondent's hearsay objections. In its case, Respondent called an employee named Rosanna Taveras as a witness. Respondent's Exhibits A, D, and E were admitted into evidence as well.

The final hearing was transcribed, but neither party ordered a transcript of the proceeding. Each side submitted a proposed recommended order before the deadline established at the conclusion of the hearing, which was November 14, 2016.

Unless otherwise indicated, citations to the Florida Statutes refer to the 2016 Florida Statutes.

#### FINDINGS OF FACT

1. Petitioner Alicia Valentine ("Valentine") is an African-American woman who currently resides in Chicago but lived in Miami, Florida, at all relevant times.

2. Respondent Catholic Charities of the Archdiocese of Miami, Inc. ("Catholic Charities"), is a Florida nonprofit corporation that provides social services in Miami-Dade, Broward, and Monroe counties. At no time relevant to this action did Catholic Charities sell, lease, rent, finance, broker, or manage real property, including dwellings of any nature.

3. At all relevant times, Valentine leased Apartment No. 1410 at 1451 South Miami Avenue, Miami, Florida, for the sum of \$2,000.00 per month from her landlord, Park Place at Brickell, LLC.

4. Before contacting Catholic Charities and setting in motion the events that led to this action, Valentine had lost her job, exhausted her unemployment compensation payments, and wound up having no income. Unable to pay rent, Valentine applied to

Catholic Charities, on or around January 27, 2016, for emergency rental assistance to avoid losing her apartment.

5. Catholic Charities runs an Emergency Services program that provides cash payments to individuals to help them pay one month's rent in crisis situations. The program limits rental assistance to a single payment of up to \$1,000.00 per applicant, which may be received only once every 12 months.

6. Catholic Charities has written eligibility criteria that an applicant must satisfy to qualify for emergency rental assistance. The eligibility criteria require that the applicant have an eviction notice; justification of need; proof of income (showing ability to continue paying the rent after assistance); some form of identification; and a Social Security card.

7. Catholic Charities denied Valentine's request for emergency rental assistance because she failed to meet all of the eligibility requirements. Specifically, Valentine did not provide an eviction notice, nor, perhaps more important, did she provide proof of income. Thus, Valentine failed to demonstrate that she had the ability to pay the balance of her \$2,000.00 monthly rent—or any subsequent month's rent—if provided the maximum \$1,000.00 in emergency assistance.

8. It is undisputed, moreover, that Valentine never personally appeared at Catholic Charities' office to verify her identity, although, in fairness to Valentine, there is some

uncertainty as to whether Catholic Charities communicated to Valentine that she was required to provide proof of identification in person. The fact that Valentine did not appear in person to verify her identity is, however, ultimately immaterial, for even if she had, her application still would have been denied based on the failure to satisfy other eligibility criteria, e.g., proof of sufficient future income.

#### Determinations of Ultimate Fact

9. There is no persuasive evidence that any of Catholic Charities' decisions concerning, or actions affecting, Valentine, directly or indirectly, were motivated in any way by discriminatory animus directed toward Valentine.

10. There is no persuasive evidence that Valentine met the written eligibility criteria for emergency rental assistance.

11. There is no persuasive evidence that Catholic Charities sold, leased, rented, financed, or managed real property.

12. There is competent, persuasive evidence that Valentine did not qualify for emergency rental assistance and was denied on that basis.

13. In sum, there is no competent, persuasive evidence in the record, direct or circumstantial, upon which a finding of any sort of unlawful housing discrimination could be made. Ultimately, therefore, it is determined that Catholic Charities did not commit any prohibited act.

CONCLUSIONS OF LAW

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

15. Under the Florida Fair Housing Act ("FFHA"), sections 760.20 through 760.37, Florida Statutes, it is unlawful to discriminate in the sale or rental of housing. Valentine's allegations of housing discrimination based on race and sex implicate section 760.23(2), which states:

It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, or religion.

(Emphasis added). This provision of the FFHA is nearly identical to, and clearly patterned after, section 804(b) of the federal Fair Housing Act. See 42 U.S.C. § 3604(b).

16. It is beyond dispute that Catholic Charities was not engaged in selling or leasing dwellings; thus, Catholic Charities could be liable to Valentine only for the discriminatory provision (or withholding) of facilities or services to (or from) Valentine in connection with her purchase or rental of a dwelling. As found above, Valentine sought from Catholic Charities a gift in the form of financial assistance to pay rent. A gift of money is plainly not a "facility." To have a legally

cognizable claim, therefore, Valentine must establish that Catholic Charities held out to her a housing-related "service."

17. The undersigned concludes that a financial gift made by (or potentially available from) a charitable organization is not a "service" under section 760.23(2), even if the purpose of the gift is to enable the recipient to pay his or her rent. The "connection" in such situations between the gift and the recipient's housing is simply too attenuated to justify extending the FFHA's protections to a person seeking the charitable organization's help. Cf. Jersey Heights Neighborhood Ass'n v. Glendening, 174 F.3d 180, 102-93 (4th Cir. 1999) (The Fair Housing Act does not reach every event that might conceivably affect the availability of housing). Valentine's claim fails as a matter of law.

18. Even if her claim were legally sufficient, however, Valentine has failed to prove her charge. In cases involving a claim of housing discrimination, the complainant has the initial burden of proving a prima facie case of discrimination by a preponderance of the evidence. Generally speaking, a prima facie case comprises circumstantial evidence of discriminatory animus, such as proof that the charged party treated persons outside of the protected class, who were otherwise similarly situated, more favorably than the complainant was treated.<sup>1/</sup> Failure to establish a prima facie case of discrimination ends the inquiry.

See Ratliff v. State, 666 So. 2d 1008, 1012 n.6 (Fla. 1st DCA), aff'd, 679 So. 2d 1183 (1996) (citing Arnold v. Burger Queen Sys., 509 So. 2d 958 (Fla. 2d DCA 1987)).

19. If, however, the complainant sufficiently establishes a prima facie case, the burden then shifts to the charged party to articulate some legitimate, nondiscriminatory reason for its action. If the charged party satisfies this burden, then the complainant must establish by a preponderance of the evidence that the reason asserted by the charged party is, in fact, merely a pretext for discrimination. See Massaro v. Mainlands Section 1 & 2 Civic Ass'n, Inc., 3 F.3d 1472, 1476 n.6 (11th Cir. 1993), cert. denied, 513 U.S. 808, 115 S. Ct. 56, 130 L. Ed. 2d 15 (1994) ("Fair housing discrimination cases are subject to the three-part test articulated in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973)."); Sec'y, U.S. Dep't of HUD, on behalf of Herron v. Blackwell, 908 F.2d 864, 870 (11th Cir. 1990) ("We agree with the ALJ that the three-part burden of proof test developed in *McDonnell Douglas* [for claims brought under Title VII of the Civil Rights Act] governs in this case [involving a claim of discrimination in violation of the federal Fair Housing Act].").

20. To make out a prima facie case of discrimination, Valentine needed to show that she: (1) belonged to a protected class; (2) was qualified to receive the services in question;



(3) was denied the services by Catholic Charities; and (4) was treated less favorably by Catholic Charities than were similarly-situated persons outside of the protected class. See, e.g., Jackson v. Comberg, 2006 U.S. Dist. LEXIS 66405, 15 (M.D. Fla. Aug. 22, 2006).

21. It is undisputed that Valentine is an African-American woman who belongs to protected classes and was denied the financial assistance she sought from Catholic Charities. Beyond that, Valentine failed to prove any of the facts required to establish a prima facie case of discrimination on the basis of race or sex.

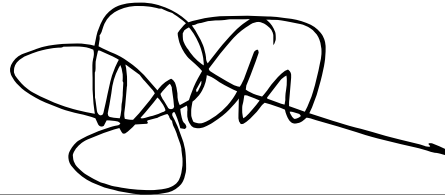
22. The failure to establish a prima facie case of discrimination ended the inquiry. The burden never shifted to Catholic Charities to articulate legitimate, nondiscriminatory reasons for its conduct, but it did so anyway. Plainly stated, Valentine did not meet the written eligibility standards for emergency rental assistance under the Catholic Charities' criteria and was denied on that basis. There was no discrimination involved.

#### 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 finding Catholic Charities not

liable for housing discrimination and awarding Valentine no relief.

DONE AND ENTERED this 7th day of December, 2016, in Tallahassee, Leon County, Florida.



---

JOHN G. VAN LANINGHAM  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us

Filed with the Clerk of the  
Division of Administrative Hearings  
this 7th day of December, 2016.

ENDNOTE

<sup>1/</sup> Alternatively, the complainant's burden may be satisfied with direct evidence of discriminatory intent. See Trans World Airlines, Inc. v. Thurston, 469 U.S. 111, 121, 105 S. Ct. 613, 621, 83 L. Ed. 2d 523 (1985) ("[T]he McDonnell Douglas test is inapplicable where the plaintiff presents direct evidence of discrimination" inasmuch as "[t]he shifting burdens of proof set forth in *McDonnell Douglas* are designed to assure that the 'plaintiff [has] his day in court despite the unavailability of direct evidence.'").

COPIES FURNISHED:

Tammy S. Barton, Agency Clerk  
Florida Commission on Human Relations  
4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399  
(eServed)

Alicia Valentine  
211 South Clark Street, Suite A3382  
Chicago, Illinois 60690  
(eServed)

Thomas H. Courtney, Esquire  
J. Patrick Fitzgerald & Associates, P.A.  
110 Merrick Way, Suite 3-B  
Coral Gables, Florida 33134  
(eServed)

Cheyenne Costilla, General Counsel  
Florida Commission on Human Relations  
4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399  
(eServed)

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.