

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

SELWYN TITUS,

EEOC Case No. 15D201600290

Petitioner,

FCHR Case No. 2016-00654

v.

DOAH Case No. 16-5774

MIAMI-DADE COUNTY,

FCHR Order No. 17-075

Respondent.

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

Preliminary Matters

Petitioner Selwyn Titus filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2014), alleging that Respondent Miami-Dade County committed unlawful employment practices against Petitioner on the basis of unlawful retaliation.

Prior to the issuance of an investigatory determination by the Commission, 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.

Administrative Law Judge June C. McKinney issued an "Order on Motions," dated January 5, 2017, granting Respondent's motion to dismiss the Petition for Relief for lack of jurisdiction.

The Commission issued an "Order Remanding Petition for Relief from an Unlawful Employment Practice," FCHR Order No. 17-025, dated March 30, 2017, remanding the case to the Administrative Law Judge for further proceedings on the Petition for Relief.

The matter was transferred to Administrative Law Judge Robert E. Meale, and on May 12, 2017, an evidentiary hearing was conducted by Judge Meale by video teleconference at sites in Miami and Tallahassee, Florida.

Judge Meale issued a Recommended Order of dismissal, dated July 25, 2017.

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, "Exceptions."

Petitioner's exceptions document excepts to the contents of the following paragraphs of the Recommended Order: the Preliminary Statement section (two exceptions), 1, 2, 3, 4 and 5.

In each instance, the stated exception takes issue with inferences drawn by the Administrative Law Judge from the evidence presented.

In addition, Petitioner excepts to the Administrative Law Judge's failure to consider Petitioner's claim under the "Whistle-blowers Act," Section 112.3187, Florida Statutes.

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), Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011) and Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014).

In addition, it has been stated, "The ultimate question of the existence of discrimination is a question of fact." Florida Department of Community Affairs v. Bryant, 586 So. 2d 1205, at 1209 (Fla. 1<sup>st</sup> DCA 1991). Accord, Coley v. Bay County Board of County Commissioners, FCHR Order No. 10-027 (March 17, 2010), Eaves, *supra*, and Taylor, *supra*.

With regard to Petitioner's allegations under the "Whistle-blowers Act," those allegations are outside of the jurisdiction of this proceeding.  
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 14 day of September, 2017.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Derick Daniel, Panel Chairperson;  
Commissioner Jay Pichard; and  
Commissioner Sandra Turner

Filed this 14 day of September, 2017,  
in Tallahassee, Florida.

  
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Commission on Human Relations  
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Robert E. Meale, 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 14 day of September, 2017.

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