

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JAMAINE JONES,

EEOC Case No. 15D201600880

Petitioner,

FCHR Case No. 2016-02072

v.

DOAH Case No. 17-1996

WINTER HAVEN HOSPITAL, INC.,

FCHR Order No. 17-077

Respondent.

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

Preliminary Matters

Petitioner Jamaine Jones filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2015), alleging that Respondent Winter Haven Hospital, Inc., committed unlawful employment practices by creating a hostile work environment on the basis of Petitioner's race (African American) and by terminating Petitioner from employment on the basis of Petitioner's race.

The allegations set forth in the complaint were investigated, and, on February 27, 2017, 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 in Lakeland, Florida, on June 20, 2017, before Administrative Law Judge D. R. Alexander.

Judge Alexander issued an Amended Recommended Order of dismissal, dated August 11 2017.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Amended 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, received by the Commission on or about August 16, 2017.

Respondent filed a response to Petitioner's exceptions.

Petitioner's exceptions document contains two numbered exceptions and excepts to the contents of paragraphs 5 and 10 of the Recommended Order.

In each instance, the stated exception takes issue with inferences drawn by the Administrative Law Judge from the evidence presented and / or credibility determinations made by the Administrative Law Judge.

It is the hearing officer's function to consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent, substantial evidence. Amador v. Sch. Bd. of Monroe Cty., 2017 Fla. App LEXIS 7516; 42 Fla. L. Weekly D 1175; 2017 WL 2264605 citing Tedder v. Fla. Parole Comm'n, 842 So. 2d 1022, 1025 (Fla. 1st DCA 2003). "Thus, if the evidence presented supports two inconsistent findings, as it did in this case, it is the Administrative Law Judge's role to decide the issue one way or the other, and the agency may not reject the Administrative Law Judge's finding or otherwise interpret the evidence to fit its desired ultimate conclusion unless there is no competent, substantial evidence from which the finding could reasonably be inferred." Amador v. Sch. Bd. of Monroe Cty., 2017 Fla. App LEXIS 7516; 42 Fla. L. Weekly D 1175; 2017 WL 2264605 citing Bridlewood Grp. Home v. Agency for Persons with Disabilities, 136 So. 3d 652, 657 (Fla. 2d DCA 2013).

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). 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) Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014), Robinson v. Gulf Coast

Community College, FCHR Order No. 12-007 (February 21, 2012) and Chris-Tensen v. Earthlink Shared Services, LLC, FCHR Order No. 17-071 (August 23, 2017).

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. 1st DCA 1991). Coley v. Bay County Board of County Commissioners, FCHR Order No. 10-027 (March 17, 2010), Eaves, supra, Taylor, supra and Chris-Tensen supra.

Petitioner's exceptions are rejected.

Dismissal

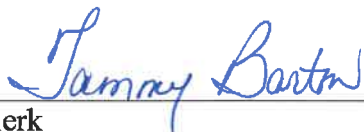
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 day of October, 2017.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rebecca Steele, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Latanya Peterson

Filed this 12 day of October, 2017 in Tallahassee, Florida.


Clerk
Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399
(850) 488-7082

Copies furnished to:

Jamaine Jones
c/o Jason B. Woodside, Esq.
Woodside Law, P.A.
P.O. Box 9447
Tampa, FL 33674-9447

Winter Haven Hospital, Inc.
c/o Thomas B. Gonzalez, Esq.
Thompson, Sizemore, Gonzalez & Hearing, P.A.
201 North Franklin Street, Suite 1600
Tampa, FL 33602

D.R. Alexander, Administrative Law Judge, DOAH

Radhika Puri, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 12 day of October, 2017.

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