

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

GEOFFREY HILL,

EEOC Case No. 15D201800623

Petitioner,

FCHR Case No. 2018-07921

v.

DOAH Case No. 18-6198

FIRST DATA CORPORATION,

FCHR Order No. 19-019

Respondent.

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

Preliminary Matters

Petitioner Geoffrey Hill filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2017), alleging that Respondent First Data Corporation committed an unlawful employment practice on the basis of Petitioner's sex (male) and on the basis of retaliation by terminating Petitioner from employment. Petitioner also alleged that Respondent unlawfully created a hostile work environment for Petitioner on the basis of Petitioner's sex.

The allegations set forth in the complaint were investigated, and, on October 15, 2018, 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.

The matter was assigned to Administrative Law Judge Robert E. Meale.

Prior to an evidentiary hearing in the case, Judge Meale considered Respondent's Motion to Dismiss for Lack of Jurisdiction.

In response to Respondent's Motion to Dismiss for Lack of Jurisdiction, Judge Meale issued a Recommended Order of Dismissal, dated December 19, 2018, finding that by executing an "Agreement and Release," Petitioner released Respondent from the claim that was the basis of Petitioner's charge of discrimination. "The language of the release extends to the claims presented in this case. A party may release claims under the Florida Civil Rights Act of 1992," concluded Judge Meale.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order of Dismissal.

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 find it unnecessary to the ultimate disposition of this case to either accept or reject the Administrative Law Judge's conclusion of law that "...a party that has signed a release and accepted its benefits must tender back the payment for the release prior to filing suit."

With this comment, we adopt the Administrative Law Judge's remaining conclusions of law.

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order of Dismissal in a document entitled, "Exceptions to Recommended Order," received by the Commission on January 2, 2019.

Petitioner's exceptions document contains two numbered exceptions.

Exception No. 1 takes issue with the conclusion that Petitioner's employment discrimination complaint was released by Petitioner's signing of the "Agreement and Release." We note that Commission Panels have concluded that cases should be dismissed when Petitioners have executed general releases similar to that executed in the instant case. See Tolbert v. Department of Economic Opportunity, FCHR Order No. 13-047 (June 19, 2013) and cases cited therein; see also, Hargrove v. American Staff Management, Inc., FCHR Order No. 16-061 (December 8, 2016).

Exception No. 1 is rejected.

Exception No. 2 takes issue with the Administrative Law Judge's conclusion that a party that has signed a release must tender back the payment for the release prior to filing suit.

We have dealt with this issue in the Conclusions of Law section of this Order, above.

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 4 day of March, 2019.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Maryam Laguna Borrego (not participating); and
Commissioner Gilbert Singer

Filed this 4 day of March, 2019,
in Tallahassee, Florida.


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Robert E. Meale, Administrative Law Judge, DOAH

Stanley Gorsica, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 4 day of March, 2019.

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