

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

VADIM TROSHKIN,

EEOC Case No. 15D201900564

Petitioner,

FCHR Case No. 2019-17821

v.

DOAH Case No. 19-5063

AGAPE COMMUNITY HEALTH CENTER,

FCHR Order No. 20-004

Respondent.

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

This matter is before the Commission for consideration of the Order Relinquishing Jurisdiction and Recommending Dismissal, dated November 20, 2019, issued in the above-styled matter by Administrative Law Judge James H. Peterson, III.

Findings of Fact and Conclusions of Law

Judge Peterson's order reflects that Petitioner failed to comply with discovery requests, failed to comply with his Order of Pre-Hearing Instructions, and failed to appear at a telephonic hearing regarding Respondent's Verified Motion for Order(s) Dismissing Proceeding, Compelling Discovery, Issuing Sanctions, Enlarging Time, and/or Granting Other Relief (Motion for Dismissal).

We note that, generally, Commission panels have concluded that a Petitioner's failure to respond to orders of an Administrative Law Judge amounts to a voluntary dismissal of the Petition for Relief. See, generally, Varona v. Marshall Apartments, LLC, FCHR Order No. 15-062 (October 14, 2015), Noel v. C and S Wholesale Services, Inc., FCHR Order No. 15-044 (July 31, 2015), Morgan v. Skin Cancer Associates, FCHR Order No. 15-035 (June 10, 2015), Herard v. MasTec, Inc., FCHR Order No. 13-034 (May 1, 2013), Cawley v. Primrose Center, Inc., FCHR Order No. 12-009 (February 21, 2012), Roundtree, et al. v. Advenir at Stonelake, LLC, FCHR Order No. 11-069 (August 30, 2011), Biggers v. Rooms To Go, FCHR Order No. 09-045 (May 12, 2009), Shook v. Riverside National Bank, FCHR Order No. 08-029 (May 6, 2008), Clifton v. Krivs, et al., FCHR Order No. 07-062 (November 7, 2007), Bordonaro v. The Green at the Heather Condominium Association, Inc., FCHR Order No. 07-010 (February 14, 2007), Butler v. The Pepsi Bottling Group, FCHR Order No. 06-107 (December 4, 2006), Castellanos v. Express Net Airlines Pilots Association, FCHR Order No. 05-061 (June 15, 2005), Mayfield v. Karl's Haberdashery of Florida, Inc., FCHR Order No. 04-020 (March 10, 2004), and Kenny v. Florida Department of Corrections, FCHR Order No. 02-020 (June 3, 2002).

Based on the foregoing, we conclude that the Petition for Relief should be dismissed.

Exceptions

Petitioner filed a letter with the Division of Administrative Hearings dated November 22, 2019, which appears to have been received by DOAH on November 25, 2019. This could be considered his letter of exception to the Administrative Law Judge's Order Relinquishing Jurisdiction and Recommending Dismissal, even though it was not filed in the correct forum.

Respondent filed a Motion to Strike Petitioner's Purported Exception to the Order Relinquishing Jurisdiction and Recommending Dismissal on December 18, 2019.

The Administrative Procedure Act states that, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), Florida Statutes (2019); see, also Taylor v. Universal Studios, FCHR Order No 14-007 (March 26, 2014), McNeil v. HealthPort Technologies, FCHR Order No. 12-026 (June 27, 2012), and Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

A review of the Petitioner's exceptions document suggests that it does not comply with this statutory provision because it does not clearly identify the disputed portion of the Order Relinquishing Jurisdiction and Recommending Dismissal, does not clearly identify the legal basis for each exception, and does not include appropriate and specific citations to the record.

Therefore, Petitioner's exceptions are rejected.

Dismissal

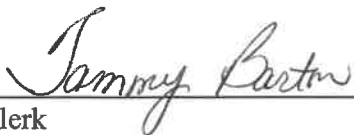
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 18 day of February, 2020.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Latanya Peterson, Panel Chairperson;
Commissioner Mario Garza; and
Commissioner Gilbert Singer

Filed this 18 day of February, 2020,
in Tallahassee, Florida.



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

Copies furnished to:

Mr. Vladim Troshkin
400 East Bay Street, Suite 1204
Jacksonville, Florida 32202

Agape Community Health Center
c/o Mr. Dabney D. Ware, Esquire
c/o Mr. Jonathan A. Stimler, Esquire
c/o Mr. Andy Underkofler, Esquire
Foley & Lardner, LLP
1 Independent Drive, Suite 1300
Jacksonville, Florida 32202

James H. Peterson, III, Administrative Law Judge, DOAH

Sarah Stewart, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 18 day of February, 2020.

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