

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

LATELRA LEWIS,

EEOC Case No. N/A

Petitioner,

FCHR Case No. 2019-16214

v.

DOAH Case No. 19-5141

PUBLIX SUPERMARKETS,

FCHR Order No. 21-041

Respondent.

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**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL PUBLIC ACCOMMODATION PRACTICE**

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated January 27, 2020, issued in the above-styled matter by Administrative Law Judge W. David Watkins.

Findings of Fact and Conclusions of Law

On March 18, 2019, Petitioner Latelra Lewis filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2019), alleging that Respondent Publix Supermarkets committed an unlawful public accommodation practice against Petitioner on the basis of race at store number 0795.

The allegations set forth in the complaint were investigated, and, on September 13, 2019, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful public accommodation practice had occurred.

On September 20, 2019, Petitioner filed a Petition for Relief from an Unlawful Public Accommodation Practice, and, on September 25, 2019, the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

On November 8, 2019, Respondent filed Respondent's Motion for Summary Judgment and Incorporated Memorandum of Law claiming that Respondent's store number 0795 is not a "public accommodation" as defined by Section 760.02(11), Florida Statutes (2019).

On November 13, 2019, Judge Watkins held a telephonic motion hearing to hear arguments on the motion from both parties.

On November 13, 2019, Judge Watkins issued an Order Cancelling Hearing and Reserving Ruling on Respondent's Motion for Summary Judgment. In this Order, Judge Watkins cancelled the evidentiary hearing scheduled for November 15, 2019 and allowed 7 days for Petitioner to respond to Respondent's Motion for Summary Judgment and 14 days for Respondent to file a supplemental motion for summary recommended order addressing whether or not store number 0795 is a "public accommodation" as defined by statute.

On November 15, 2019, Respondent filed Respondent's Motion for Summary Recommended Order and Incorporated Memorandum of Law.

On November 19, 20, and 26, 2019, Petitioner filed various documents at the Division of Administrative Hearings, but none of them addressed the issue of whether or not Respondent is a place of public accommodation in the location Petitioner visited.

Judge Watkins issued a Recommended Order of Dismissal on January 27, 2020.

Judge Watkins' order reflects that Respondent's store number 0795 is not a place of public accommodation under the facts of this case.

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

We adopt the Administrative Law Judge's conclusion in the Recommended Order of Dismissal that Respondent's store number 0795 is not a place of public accommodation as defined by Section 760.02(11), Florida Statutes (2019).

#### Exceptions

Petitioner filed a letter with the Division of Administrative Hearings dated February 11, 2020. It is not clear if this letter was meant to be a Proposed Recommended Order. However, it could be considered her letter of exception to the Administrative Law Judge's Recommended Order of Dismissal, even though it was not filed in the correct forum.

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 Recommended Order of 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

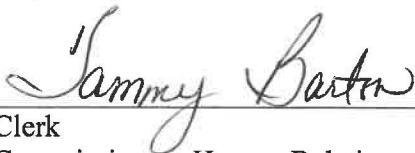
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 21 day of July, 2021.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario Garza, Panel Chairperson;  
Commissioner Larry Hart; and  
Commissioner Jay Pichard

Filed this 21 day of July, 2021,  
in Tallahassee, Florida.



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W. David Watkins, 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 21 day of July, 2021.

By: Tommy Barta  
Clerk of the Commission  
Florida Commission on Human Relations