

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

AYNDE CRESPO,

FCHR Case No. 201918436

Petitioner,

DOAH Case No. 20-2501

v.

FCHR Order No. 21-038

STEAK-N-SHAKE,

Respondent.

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

Preliminary Matters

Petitioner Aynde Crespo filed a complaint of discriminatory public accommodation practice pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2018), alleging that Respondent Steak-N-Shake harassed him and discriminated against him based on race (Black) and skin color.

The allegations set forth in the complaint were investigated, and, on April 23, 2020, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory public accommodation practice had occurred.

Petitioner filed a Petition for Relief from a discriminatory public accommodation practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held on October 13, 2020 over which Administrative Law Judge Brittany O. Finkbeiner presided. Neither party ordered a transcript of the hearing.

Judge Finkbeiner issued a Recommended Order of dismissal, dated March 11, 2021.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Troshkin v.

State of Florida, Department of Health, Duval County Department of Health, FCHR Order No. 20-008 (November 30, 2020), Coleman v. Daytona Beach, Ocean Center Parking Garage, FCHR Order No. 14-034 (September 10, 2014), Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy Land Experience, FCHR Order No. 11-048 (June 6, 2011), and Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008). We adopt the Administrative Law Judge's findings of facts.

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

Neither of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

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 23 day of June, 2021.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Darrick McGhee, Panel Chairperson;  
Commissioner Larry Hart; and  
Commissioner Jay Pichard

Filed this 23 day of June, 2021,  
in Tallahassee, Florida

*Tammy Barton*  
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Tammy Barton, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082

Copies furnished to:

Ayinde Crespo  
c/o Andrew Williams, Esquire  
The Williams Law Group  
6273 Sunset Drive, Suite D-3  
South Miami, FL 33143

Steak-N-Shake  
c/o J. Robert McCormack, Esquire  
Ina F. Young, Esquire  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
100 North Tampa Street, Suite 3600  
Tampa, Florida 33602

Brittany O. Finkbeiner, Administrative Law Judge, DOAH

John Scotese, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 23 day of June, 2021.

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