

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

JERUSCHA M. TOUSSAINT,

EEOC Case No. 15D202000647

Petitioner,

FCHR Case No. 202023310

v.

DOAH Case No. 20-3439

WALMART,

FCHR Order No. 21-060

Respondent.

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

Preliminary Matters

On February 17, 2020, Petitioner Jeruscha M. Toussaint 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 Walmart, committed an unlawful employment practice against Petitioner on the bases of race, sex, and retaliation.

The allegations set forth in the complaint were investigated, and, on June 24, 2020, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

On July 31, 2020, 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.

On November 13, 2020, a final evidentiary hearing was held in via Zoom Conference before Administrative Law Judge Brittany O. Finkbeiner.

Judge Finkbeiner issued a Recommended Order, dated February 12, 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

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 faxed a letter of disagreement with the Commission on March 1, 2021, which can be considered her Exceptions to the Recommended Order. However, Petitioner's filing did not comply with the statute of limitations for filing exceptions under section 120.57(1)(k), *Florida Statutes*, which requires that Exceptions be filed within 15 days of the date that a Recommended Order is issued.

Additionally, even if the filing had been timely, 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* (2018); 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).

Petitioner's document did not identify the disputed portion of the Recommended Order by page number or paragraph, and did not identify the legal basis for the exceptions with appropriate and specific citations to the record.

Accordingly, Petitioner's Exceptions are rejected.

Dismissal

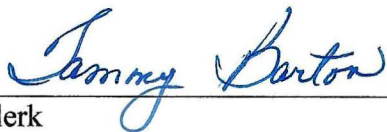
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 30 day of Sept, 2021.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Darrick McGhee, Panel Chairperson;  
Commissioner Jay Pichard; and  
Commissioner Angela Primiano

Filed this 30 day of Sept, 2021,  
in Tallahassee, Florida.

  
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Brittany O. Finkbeiner, 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 30 day of Sept., 2021.

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