STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

RONALD D. JONES,

Petitioner,

vs. Case No. 20-4489

THE SCHOOL BOARD OF GADSDEN COUNTY,

Respondent.
_____/

RECOMMENDED ORDER

An administrative hearing was conducted in this case on December 16, 2020, via Zoom, before James H. Peterson III, Administrative Law Judge with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Ronald D. Jones, pro se
1821 McKelvy Street
Quincy, Florida 32351

For Respondent: William Breen Armistead, Esquire
Coppins Monroe, P.A.
1319 Thomaswood Drive
Tallahassee, Florida 32308

STATEMENT OF THE ISSUE

Whether Respondent, The School Board of Gadsden County (School Board or Respondent), violated the Florida Civil Rights Act of 1992,[1] by

[1] Unless otherwise indicated, all references to the Florida Statutes, Florida Administrative Code, and federal laws are to the current versions, which have not substantively changed since the time of the alleged discrimination.

discriminating against the employment of Ronald D. Jones (Petitioner) because of his race, gender, or age, or in retaliation for his engagement in protected activities.

PRELIMINARY STATEMENT

Petitioner filed an Employment Complaint of Discrimination (Discrimination Complaint) with the Florida Commission on Human Relations (the Commission or FCHR) on March 6, 2020, which was assigned FCHR Case No. 202023534 (Complaint).

On September 15, 2020, the Commission filed a Notice of Rights which advised Petitioner that the Commission "was unable to conciliate or make a reasonable cause determination within 180 days of the filing of the complaint in this matter." The Notice of Rights further notified Petitioner of his right to file a complaint in any court of competent jurisdiction within one year, or "[r]equest an administrative hearing with the Division of Administrative Hearings under sections 120.569 and 120.57, *Florida Statutes*, by filing a Petition for Relief **WITHIN 35 DAYS** of the date of [the] notice." On October 8, 2020, Petitioner timely filed a Petition for Relief, and on that same date the Commission forwarded the petition to DOAH for assignment of an administrative law judge to conduct a hearing.

The undersigned was assigned the case and scheduled it for the administrative hearing which was held December 16, 2020, via Zoom conference. During the hearing, Petitioner testified on his own behalf, called Gadsden High School Principal Pamela Jones, Gadsden County Schools Superintendent Elijah Keys, and School Board Human Resources Director Sandra Robinson as witnesses, and offered 14 exhibits received into evidence as Exhibits P-1 through P-14. The School Board presented its case through

expanded cross-examination of Petitioner and his witnesses and offered six exhibits received into evidence as Exhibits R-1 through R-6.

The proceedings were recorded and a transcript was ordered. The parties were given 30 days from the filing of the transcript to submit their proposed recommended orders. The one-volume Transcript of the hearing was filed February 17, 2021. Thereafter, the School Board timely filed its Proposed Recommended Order, which has been considered in the preparation of this Recommended Order. Petitioner did not file a proposed recommended order.

FINDINGS OF FACT

1. Petitioner is a 62-year-old black male who, in the past, has been a substitute teacher for the School Board.

2. Petitioner was eligible to receive a temporary teaching and professional teaching certificate for social sciences, grades 6 through 12, from October 12, 2017, through October 12, 2020, but not for certificates in other educational areas.

3. The School Board is the governing body responsible for the administration of public schools in Gadsden County, Florida.

4. Petitioner's Discrimination Complaint is based upon the fact that he was not hired for a full-time position at Gadsden County High School for which he applied between August 2019 and January 2020. In his Discrimination Complaint, Petitioner alleges:

> I have been discriminated based on my sex (male) and my race (black). I also believe I have been experiencing retaliation since 2008 when I filed a complaint with the Florida Commission on Human Relations (FCHR) in 2008. I began working for the School Board of Gadsden County (Gadsden County) in January 2008 as a Substitute Teacher. I substituted in an English position for Gadsden (County) High School on or around January 2019–June 2019. Between August 2019–January

> 2020, I applied for several positions with Gadsden County but was not hired for any position. Instead, the jobs were filled with individuals outside of my protective class. These positions were for the Graduation Coach position, Teacher on Special Assignment position, and several positions in the Social Studies department. For example, when Mr. Plewa quit during the first week of school in 2019, I substitute taught in the Social Studies Position from August 2019–January 2020, until Gadsden County High School hired a teacher. Mr. Knight, an individual with no experience working within Gadsden County School System and a recent college graduate, was hired for the position. I am currently employed with Gadsden County and have not seen any changes within my workplace.

5. Petitioner has worked as a substitute teacher at different schools within the Gadsden County School District for various periods of time since at least March 2007. He has applied for numerous positions with the School Board over the years, from bus driver to deputy superintendent.

6. This case is the second case that Petitioner has filed against the School Board alleging employment discrimination. His first case against the School Board (First Case) alleged discrimination based on his gender which was tried before the undersigned in 2010 and ultimately resulted in a Final Order dismissing his claim. *See Jones v. Gadsden Cty. Sch. Bd.*, Case No. 10-8570 (DOAH Jan. 19, 2011; FCHR Apr. 13, 2011). Petitioner did not file any exceptions to the Recommended Order in that case or appeal the Final Order. He contends, however, that one of the reasons that the School Board did not hire him is in retaliation against him for filing that case.

7. Prior to 2017, Petitioner's teaching certificate had been revoked due to a criminal conviction. In a subsequent application, Petitioner disclosed the conviction. This prompted a review by the Office of Professional Practices Services of the Florida Department of Education. On October 7, 2019, the

Department of Education issued a letter (Eligibility Letter) to Petitioner regarding his application for his Florida Educator Certificate, stating:

> Your Application for a Florida Educator Certificate or Athletic Coaching Certificate was referred to the Office of Professional Practices Services by the Bureau of Educator Certification. The Office of Professional Practices Services is charged with reviewing the background history and/or alleged misconduct of persons seeking a Florida educator certificate.
>
> The Office of Professional Practices Services has conducted its review and determined that at this time, further action by this office is not warranted.
>
> For any questions specific to the review conducted by the Office of Professional Practices, contact the Office of Professional Practices Services at 850-245-0438.
>
> For questions regarding the processing of your application for certification, contact the Bureau of Educator Certification at 1-800-445-6739.

8. As explained by School Board Human Resources Director Sandra Robinson, the Eligibility Letter indicates that the Department of Education conducted a review and that "no further action was required," meaning that Petitioner was again eligible to apply for a teaching certificate. Ms. Robinson further explained that actual teaching certificates, however, are not issued by the Department of Education until an applicant has been hired for a teaching position.

9. Further, according to Ms. Robinson, the Eligibility Letter means that Petitioner is only eligible to apply for an Athletic Coaching Certificate.

10. The terms of the Eligibility Letter, however, do not limit Petitioner's eligibility for just an Athletic Coaching Certificate because it also references a Florida Educator Certificate.

11. In the fall of 2019, Gadsden County High School Principal Pamela Jones, a black female, hired Petitioner to fill in as a part-time substitute teacher for a social studies class. Prior to this hiring, Petitioner had interviewed with Principal Jones at the school's job fair.

12. Between late 2019 and January 2020, Petitioner applied for several full-time instructional positions at Gadsden County High School, including graduation coach, special assignment teacher, and six social studies positions. As part of the application process, Petitioner indicated on his application that he had a prior criminal conviction. The application also asks applicants to provide details of any criminal history that is revealed, but on his applications, Petitioner only indicated "will explain." As a result of Petitioner's revelation of a criminal background in his applications, Petitioner's status appeared as "ineligible" in the School Board's application database.

13. During all pertinent time periods, Gadsden High School Principal Pamela Jones was responsible for making the final hiring decisions at Gadsden County High School, subject to approval of the School Board. Although Petitioner provided Principal Jones with a copy of the October 7, 2019, Eligibility Letter, which she understood made Petitioner eligible to receive a teaching certificate, she did not hire Petitioner for any of the positions because his name came up as "Ineligible CR" ("CR" standing for criminal record) in the Gadsden County School system.

14. School Board Human Resources Director Sandra Robinson had a similar explanation regarding the effect of the "Ineligible CR" as did Principal Jones. While Ms. Robinson acknowledged that Petitioner was eligible for a teaching certificate, she testified that the Department of Education has no bearing on the School Board's application process. While acknowledging that the School Board has hired teachers with criminal backgrounds, and advising that Petitioner might be able to obtain a job by further explaining his criminal record when referencing it in his School Board applications,

Ms. Robinson was unable to explain a clear path as to how Petitioner might be able to obtain a position with the School Board with a criminal record referenced on his applications.

15. Considering the views of both Principal Jones and Human Resources Director Robinson, together with their understandings of the meaning of the Eligibility Letter, it is found that it was a mistake not to consider Petitioner eligible for an interview or hire for the vacant positions for which he applied just because Petitioner's applications revealed a criminal background.

16. Further, while it is apparent that the School Board should address its application process to clarify a path to employment for those who may have criminal backgrounds, it is found that the fact that Petitioner was deemed ineligible for employment was not unlawful discrimination or retaliation as alleged in Petitioner's Discrimination Complaint. Rather, the evidence fell short of demonstrating unlawful discrimination and, instead, revealed a mistake in the School Board's application process.

17. The chart below, provided in the School Board's Proposed Recommended Order and supported by the evidence, lists the names, age, race, and gender of the teachers hired for the positions for which Petitioner applied:

Final candidate	Position	Age	Race	Sex
O'Hara Black	Special Assignment	47	Black	Male
Stephanie Dauphin	Social Studies	23	Black	Female
Devonte Knight	Social Studies	27	Black	Male
Tomeka Lightfoot	Graduation Coach	44	Black	Female
Albert Plewa	Social Studies	29	White	Male
Dominga Robinson	Social Studies	31	Black	Female
Erin Shields	Social Studies	33	Black	Female

Laquadra Simmons	Social Studies	38	Black	Female
Ciara Stephenson	Social Studies	32	Black	Female

18. Petitioner acknowledged that Principal Jones hired males and females, black teachers and white teachers, and does not dispute the fact that the School Board has hired teachers over the age of 65 during the timeframe of his discrimination claims.

19. Rather than providing evidence of discrimination, Petitioner admitted that he assumed discrimination anytime someone was hired for a position he had applied for that was of a different race, sex, or age from Petitioner.

20. For instance, Petitioner claims that he was not hired because of his race, sex, and age, but acknowledged that for each position for which he was not hired, he simply alleges discrimination based on whatever protected characteristic(s) he did not share with the final candidate, i.e., he chose the one that applied. For example, if a black female was hired, Petitioner alleges he was not hired because of his sex. If a white male was hired, then Petitioner contends he was not hired because of his race.

21. In sum, Petitioner failed to present sufficient evidence to show that the School Board treated similarly situated applicants or employees outside Petitioner's protected class of race, sex, or age more favorably. Rather, the only evidence Petitioner presented to support the allegation that Principal Jones's or the School Board's hiring decisions were discriminatory was "the fact they never hired me."

22. Petitioner also claims that he was not hired out of retaliation for filing his First Case against the School Board over 12 years ago. Petitioner produced no evidence supporting this claim, and admitted that he had no evidence that Principal Jones even knew that he had filed the charge prior to her decision not to hire him.

23. The School Board proffered two reasons that it did not hire Petitioner: (1) his application status in its database indicated that he was "ineligible" because of his criminal history, and (2) Principal Jones did not believe he could effectively manage a classroom full-time, as evidenced by his performance as a substitute.

24. The first proffered reason–that Petitioner's affirmative response to a question regarding his criminal history rendered him ineligible–was a mistake. While it was a mistake not to consider Petitioner for an interview or potential hire in disregard of his Eligibility Letter, that mistake does not show that the School Board discriminated against Petitioner as alleged, nor does it make that purported reason for not considering Petitioner's application mere pretext. It was merely a mistake in the application process. Future use of that process after this case to exclude applicants with criminal backgrounds who have otherwise been cleared by the Department of Education may very well constitute pretext in view of the fact that the School Board should now be aware of the shortcomings of its process. Pretext, however, is not found in this case because the evidence does not suggest that Principal Jones or the School Board were aware that, under the circumstances, it was a mistake to exclude Petitioner's applications.

25. The second reason–that Petitioner was not considered or hired because of concerns regarding his ability to manage a classroom–is supported by the evidence.

26. During the 2019-2020 school year, current Gadsden County Schools Superintendent Elijah Key served as a Vice Principal at Gadsden County High School. While there, Mr. Key observed a number of classroom management issues with Petitioner, including the fact that a large number of student disciplinary referrals were coming from Petitioner's classroom and Petitioner was inconsistent with meting out discipline to students. The specific examples from Mr. Key's testimony based on his observations provided credible evidence that Petitioner lacked control over his classroom.

27. At the times they were made, Mr. Key reported his observations to Principal Jones, and suggested that they needed to find another substitute or hire a new teacher to take over Petitioner's class because of the lack of classroom control.

28. At the final hearing, Principal Jones testified that, even if Petitioner was not excluded from hire because of his criminal background, she probably would not have hired Petitioner based on her own observations and her administrator's observations of Petitioner's inability to manage his classroom. In the words of Principal Jones, "- - if you can't manage the classroom, you can't teach the students."

29. Petitioner failed to provide evidence refuting the testimony of Principal Jones's assessment that, even if Petitioner was eligible to obtain a teaching certificate, she probably would not have hired him because of his inability to manage a classroom.

CONCLUSIONS OF LAW

30. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this proceeding. *See* §§ 120.569, 120.57(1), and 760.11(4)(b), Fla. Stat.; *see also* Fla. Admin. Code R. 60Y-4.016.

31. The Florida Civil Rights Act of 1992, as amended (the Act), is codified in sections 760.01 through 760.11, Florida Statutes.

32. Section 760.10(1) provides, in pertinent part:

> (1) It is an unlawful employment practice for an employer:
> (a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status.
> (b) To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee, because of such

> individual's race, color, religion, sex, national origin, age, handicap, or marital status.

33. The School Board is an "employer" within the meaning of the Act. *See* § 760.02(7), Fla. Stat. ("'Employer' means any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person."); *see also* § 760.02(7), Fla. Stat. ("'Person' includes . . . any governmental entity or agency.").

34. As developed in federal cases, a prima facie case of discrimination under Title VII may be established by direct evidence, which, if believed, would prove the existence of discrimination without inference or presumption. Direct evidence, consisting of blatant remarks whose intent could be nothing other than discriminatory, does not exist in this case. *See Damon v. Fleming Supermarkets of Fla., Inc.*, 196 F.3d 1354, 1358-59 (11th Cir 1999). Where direct evidence is lacking, one seeking to prove discrimination must rely on circumstantial evidence of discriminatory intent, using the three-part shifting "burden of proof" pattern established in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *See Holifield v. Reno*, 115 F.3d 1555, 1562 (11th Cir. 1997).

35. Under *McDonnell Douglas*, first, Petitioner has the burden of proving a prima facie case of discrimination by a preponderance of the evidence. Second, if Petitioner sufficiently establishes a prima facie case, the burden shifts to Respondent to "articulate some legitimate, nondiscriminatory reason" for its action. Third, if Respondent satisfies this burden, Petitioner has the opportunity to prove by a preponderance of the evidence that the legitimate reasons asserted by Respondent are, in fact, mere pretext. *McDonnell Douglas Corp*., 411 U.S. at 802-04.

36. In order to establish a prima facie case under *McDonnell Douglas*, a plaintiff or petitioner alleging unlawful discrimination under Title VII must show: (1) he belongs to a protected group; (2) that he was subjected to an

adverse employment action; (3) his employer treated similarly situated employees outside his classification more favorably; and (4) he was qualified to do the job. *Holifield*, 115 F.3d, at 1562; *McDonnell Douglas Corp*., 411 U.S., at 802.

37. Petitioner has not presented sufficient evidence to show a prima facie case of unlawful discrimination on the basis of race, gender, or age. While the evidence demonstrates that Petitioner falls within the alleged protected groups and that Petitioner suffered an adverse employment action, there is no evidence of record that Principal Jones or the School District treated similarly situated employees outside the protected groups more favorably.

38. Other than his own speculative belief, Petitioner submitted no evidence to support his contention that he was discriminated against because of his race, sex, or age. Mere speculation or self-serving belief on the part of a complainant concerning motives of a respondent is insufficient, standing alone, to establish a prima facie case of intentional discrimination. *See Lizardo v. Denny's, Inc.*, 270 F.3d 94, 104 (2d Cir. 2001)("Plaintiffs have done little more than cite to their mistreatment and ask the court to conclude that it must have been related to their race. This is not sufficient.").

39. In addition, in view of unrefuted evidence indicating Petitioner's lack of classroom control, it is also questionable whether Petitioner presented sufficient evidence demonstrating that he was qualified for the jobs for which he applied.

40. In sum, Petitioner failed to present a prima facie case. "Failure to establish a prima facie case of . . . discrimination ends the inquiry." *Ratliff v. State,* 666 So. 2d, 1008, 1013 n.6 (Fla. 1st DCA 1996)(citations omitted).

41. Even if Petitioner was deemed to have submitted sufficient evidence to show a prima facie case of unlawful discrimination on the basis of race, gender, or age, unrefuted evidence in this case demonstrates that the School Board had nondiscriminatory reasons supporting its decision not to interview or hire Petitioner.

42. While the failure to interview or hire Petitioner because of a misperception that Petitioner's criminal background made him ineligible for hire, the evidence was insufficient to show that that reason was a mere pretext for discrimination. In addition, the evidence demonstrated that Petitioner was not considered a viable candidate because it was perceived that Petitioner did not have the ability to manage a classroom.

43. The first reason for not hiring Petitioner–because of his criminal background–was a mistake under the circumstances. However, credible testimony articulated by Principal Jones and the School Board's Human Resources Director demonstrated that they truly believed that Petitioner was not eligible for hire under the School Board's application process, which provided a legitimately nondiscriminatory reason for not interviewing or hiring Petitioner.

44. Petitioner cannot prove pretext by showing that one or more of the reasons that he was not hired was a mistake. Rather, in order to prevail on his claims, Petitioner "must show not merely that [Respondent's] employment decision [was] mistaken but that [it was] in fact motivated by race [gender, or age] . . . a plaintiff may not establish that an employer's proffered reason is pretext merely by questioning the wisdom of the employer's reasons, at least not where . . . the reason is one that might motivate a reasonable employer." *Thomas v. Hall*, 2011 WL 4021333, at *4 (N.D. Fla. 2011)(quoting *Porter v. Am. Cast Iron Pipe Co.*, 927 Fed. Appx. 734, 736 (11th Cir. 2011)); *see also Chapman v. AI Transport*, 229 F.3d 1012, 1030 (11th Cir. 2000), where the Eleven Circuit explained:

> A plaintiff is not allowed to recast an employer's proffered nondiscriminatory reasons or substitute his business judgment for that of the employer. Provided that the proffered reason is one that might motivate a reasonable employer, an employee must meet that reason head on and rebut it, and the employee cannot succeed by simply quarreling with the wisdom of that

> reason. *See Alexander v. Fulton County, Ga.*, 207 F.3d 1303, 1341 (11th Cir.2000) (Title VII case) ("[I]t is not the court's role to second-guess the wisdom of an employer's decisions as long as the decisions are not racially motivated."); *Combs,* 106 F.3d at 1541–43. We have recognized previously and we reiterate today that:
> [f]ederal courts "do not sit as a super-personnel department that reexamines an entity's business decisions. No matter how medieval a firm's practices, no matter how high-handed its decisional process, no matter how mistaken the firm's managers, the ADEA does not interfere. Rather our inquiry is limited to whether the employer gave an honest explanation of its behavior."
> *Elrod v. Sears, Roebuck & Co.*, 939 F.2d 1466, 1470 (11th Cir.1991) (quoting *Mechnig v. Sears, Roebuck & Co.*, 864 F.2d 1359, 1365 (7th Cir.1988) (citations omitted)); *see also Nix v. WLCY Radio/Rahall Communications*, 738 F.2d 1181, 1187 (11th Cir.1984) (An "employer may fire an employee for a good reason, a bad reason, a reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason."); *Abel v. Dubberly*, 210 F.3d 1334, 1339 n. 5 (11th Cir.2000). We "do not ... second-guess the business judgment of employers." *Combs*, 106 F.3d at 1543; *accord Alexander*, 207 F.3d at 1339, 1341; *Damon v. Fleming Supermarkets of Florida, Inc.*, 196 F.3d 1354, 1361 (11th Cir.1999) ("We have repeatedly and emphatically held that a defendant may terminate an employee for a good or bad reason without violating federal law. We are not in the business of adjudging whether employment decisions are prudent or fair." (internal citation omitted)).

45. Petitioner also failed to refute the other legitimate, nondiscriminatory reason that the School Board provided for not considering Petitioner for hire– the perception that Petitioner lacks the ability to manage a classroom.

46. In sum, Petitioner did not demonstrate with credible evidence that the reasons asserted by the School District were mere pretext for unlawful discrimination.

47. Petitioner also failed to demonstrate a prima facie case of unlawful retaliation in violation of the Act or Title VII. Title VII makes it unlawful for employers to retaliate against employees for opposing unlawful employment practices. *See* 42 U.S.C. § 2000e-3(a); *see also* § 760.10(7), Fla. Stat. (It is an unlawful employment practice for an employer to discriminate against a person because that person has, "opposed any practice which is an unlawful employment practice" or because that person "has made a charge . . . under this subsection.)."

48. Just as in discrimination claims based on status, a plaintiff or petitioner may establish a claim of illegal retaliation using either direct or circumstantial evidence. Direct evidence of retaliation does not exist in this case. In relying on circumstantial evidence, tribunals use the *McDonnell Douglas* analytical framework. *See Bryant v. Jones*, 575 F.3d 1281, 1308 (11th Cir. 2009). "Under [that] framework, a plaintiff alleging retaliation must first establish a prima facie case by showing that: (1) he engaged in a statutorily protected activity; (2) he suffered an adverse employment action; and (3) he established a causal link between the protected activity and the adverse action." *Id.,* at 1307-08.

49. In this case, the undisputed evidence does not establish a prima facie case of retaliation. At the hearing, Petitioner admitted that he has no evidence that Principal Jones was even aware that he had filed the First Case over 12 years ago. When asked during his cross-examination whether he thought Principal Jones retaliated against him, Petitioner testified:

> Well, I don't think so. I think she was doing everything she was doing because she couldn't see my application on the file when she wanted to hire me. That's what I believe about her.

50. Further, under the "but-for" causation standard, "Title VII retaliation claims must be proved according to traditional principles of but-for causation [which] requires proof that the unlawful retaliation would not have occurred in the absence of the alleged wrongful action or actions of the employer." *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 360 (2013).

51. The over 10-year lapse between Petitioner's First Case and the alleged discrimination in this case does not support causation. As explained in *Thomas v. Cooper Lighting, Inc.*, 506 F.3d 1361, 1364 (11th Cir. 2001):

> The burden of causation can be met by showing close temporal proximity between the statutorily protected activity and the adverse employment action. *See Brungart v. BellSouth Telecomms., Inc.*, 231 F.3d 791, 798-99 (11th Cir. 2000). But mere temporal proximity, without more, must be "very close." *Clark County Sch. Dist. v. Breeden*, 532 U.S. 268, 273, 121 S. Ct. 1508, 1511, 149 L. Ed. 2d 509 (2001) (internal citations omitted). A three to four month disparity between the statutorily protected expression and the adverse employment action is not enough. *See Id.* (citing *Richmond v. ONEOK*, 120 F.3d 205, 209 (10th Cir. 1997) (3 month period insufficient) and *Hughes v. Derwinski*, 967 F.2d 1168, 1174-75 (7th Cir. 1992) (4 month period insufficient)). Thus, in the absence of other evidence tending to show causation, if there is a substantial delay between the protected expression and the adverse action, the complaint of retaliation fails as a matter of law. *See Higdon v. Jackson*, 393 F.3d 1211, 1220 (11th Cir. 2004) (citing *Wascura v. City of South Miami*, 257 F.3d 1238, 1248 (11th Cir. 2001)).

52. In sum, because of lack of evidence, failing to demonstrate causation, and in otherwise failing to demonstrate that the School Board's articulated reasons for not interviewing or hiring Petitioner were pretextual, Petitioner failed to demonstrate, by a preponderance of the evidence, that the School Board engaged in unlawful retaliation or discrimination when it failed to hire

or consider Petitioner as a viable candidate for the positions for which he applied.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Florida Commission on Human Relations enter a final order dismissing Petitioner's Complaint and Petition for Relief consistent with the terms of this Recommended Order.

DONE AND ENTERED this 30th day of March, 2021, in Tallahassee, Leon County, Florida.

JAMES H. PETERSON, III
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of March, 2021.

COPIES FURNISHED:

William Breen Armistead, Esquire
Coppins Monroe, P.A.
1319 Thomaswood Drive
Tallahassee, Florida 32308

Ronald D. Jones
1821 McKelvy Street
Quincy, Florida 32351

Tammy S. Barton, Agency Clerk
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-7020

Cheyanne Costilla, General Counsel
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-7020

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.