

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MICHAEL GRASSO,

EEOC Case No. N/A

Petitioner,

FCHR Case No. 2020-22791

v.

DOAH Case No. 21-0801F

ST. MARKS STONE CRAB FESTIVAL, INC.,

FCHR Order No. 21-039

Respondent.

**FINAL ORDER AWARDING AFFIRMATIVE RELIEF
FROM A DISCRIMINATORY PUBLIC ACCOMMODATION PRACTICE**

Preliminary Matters

On December 20, 2019, Petitioner Michael Grasso 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, St. Marks Stone Crab Festival, Inc., committed an unlawful public accommodation practice on the basis of Petitioner's disability by refusing Petitioner access to the festival because Petitioner was accompanied by his service animal, Zuko.

The allegations set forth in the complaint were investigated, and, on June 5, 2020, the Executive Director issued a determination finding that there was reasonable cause to believe that an unlawful public accommodation practice had occurred.

On July 6, 2020, Petitioner filed a Petition for Relief from an Unlawful Public Accommodation Practice, and, on July 7, 2020, the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held for DOAH Case No. 20-3036, on August 27, 2020, in Tallahassee, Florida, before Administrative Law Judge Garnett W. Chisenhall, but was continued until September 17, 2020 when the final proceeding was completed.

Judge Chisenhall issued a Recommended Order, dated November 10, 2020, for DOAH Case No. 20-3036, recommending that the Commission find that an unlawful public accommodation practice occurred and recommending affirmative relief.

On February 25, 2021, the Commission issued FCHR Order No. 21-013, an "Interlocutory Order Awarding Affirmative Relief from an Unlawful Public Accommodation Practice and Remanding Case to Administrative Law Judge for Issuance of a Recommended Order Regarding Amounts of Costs Owed Petitioner", and remanded the case back to the Division of Administrative Hearings to determine the amount of costs owed to Petitioner.

On March 8 and 9, 2021, Judge Chisenhall conducted telephonic status hearings for the current case, DOAH No. 21-0801F.

On March 16, 2021, Judge Chisenhall issued a Recommended Order recommending that the Commission issue a final order declining to award any costs to Petitioner.

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 sent an email to the Executive Director of the Commission on May 2, 2021 that can be considered Petitioner's Exceptions. However, Petitioner's email 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 email had been sent in a timely manner, 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 took exception to not being awarded Attorney's Fees, but did not identify the disputed portion of the recommended order by page number or paragraph, and the email does not include appropriate and specific citations to the record.

Accordingly, Petitioner's exceptions are rejected.

Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out in FCHR Order 21-013, we find that unlawful discrimination occurred in this matter in the manner found by the Administrative Law Judge in DOAH Case No. 20-3036, and have adopted the Administrative Law Judge's recommendations for the remedy of the discrimination.

Respondent is hereby ORDERED: to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner.

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
Clerk
Commission on Human Relations
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Copies furnished to:

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Garnett W. Chisenhall, 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 23 day of June, 2021.

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