

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

SONGA Y. CLARK,

Petitioner,

vs.

Case No. 21-1622

MANAGEMENT & TRAINING CORPORATION,

Respondent.

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RECOMMENDED ORDER OF DISMISSAL

On July 19, 2021, Yolonda Y. Green, Administrative Law Judge of the Division of Administrative Hearings (“DOAH”), convened a duly-noticed hearing by Zoom teleconference technology.

APPEARANCES

For Petitioner:      No Appearance

For Respondent:    Lindsay Dennis Swiger, Esquire  
                                 Katherine B. Brezinski, Esquire  
                                 Jackson Lewis PC  
                                 501 Riverside Avenue, Suite 902  
                                 Jacksonville, Florida 32202

STATEMENT OF THE ISSUE

The issue in this matter is whether Respondent, Management & Training Corporation<sup>1</sup> (“Respondent”) subjected Petitioner, Songa Y. Clark (“Petitioner” or “Ms. Clark”), to employment discrimination.

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<sup>1</sup> Management & Training Corporation is the correct name of Petitioner’s former employer. Thus, the case style has been amended accordingly.

### PRELIMINARY STATEMENT

On October 22, 2019, Petitioner filed a Complaint of Discrimination (“Complaint”) with the Florida Commission on Human Relations (“FCHR”). FCHR investigated the Complaint, and on April 12, 2021, issued a “Determination: No Reasonable Cause.” On May 14, 2021, Petitioner filed a Petition for Relief (“Petition”) with FCHR seeking a hearing to dispute the findings of “no reasonable cause.”

On May 19, 2021, FCHR referred the Petition to DOAH and this matter was assigned to the undersigned for a final hearing. The remainder of this case's procedural history is contained in the Findings of Fact below.

### FINDINGS OF FACT

1. Pursuant to notice, on June 1, 2021, this matter was scheduled for hearing on July 19 and 20, 2021. The hearing was initially scheduled for an in-person proceeding. On July 15, 2021, the undersigned issued an Amended Notice of Hearing, with the hearing to be conducted on the same dates by Zoom teleconference.

2. The Notice of Hearing and Amended Notice of Hearing by Zoom Conference were not only placed on the online docket, but were mailed to Petitioner at her address of record (900 Timberlane Road, Bainbridge, Georgia 39817). Furthermore, the Zoom teleconference information was emailed to the email address for Petitioner provided in her Complaint and Petition.

3. The final hearing began on July 19, 2021, at 9:30 a.m., as scheduled, Petitioner was not present when the hearing convened. Counsel for Respondent was present and prepared to present Respondent’s case.

4. The hearing reconvened at 10:15 a.m., but Petitioner was still not present. During preliminary matters, the undersigned considered Respondent's two Motions to Dismiss,<sup>2</sup> which the undersigned denied.

5. The hearing was again recessed at approximately 10:20 a.m. and reconvened at approximately 10:25 a.m. Petitioner had not appeared at the hearing, or contacted DOAH or Respondent. The hearing was then adjourned without Petitioner making an appearance herself or through representation.

6. The Complaint alleged that Petitioner was the subject of employment discrimination based upon religion.

7. FCHR issued a Notice of Determination of finding: "No Reasonable Cause."

8. Thus, Petitioner was entitled to an administrative hearing before DOAH regarding whether Respondent subjected Petitioner to unlawful employment action.

9. Petitioner presented no evidence in support of her claim.

#### CONCLUSIONS OF LAW

10. DOAH has jurisdiction over the parties and subject matter of this proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes (2020).

11. Section 760.11(7), Florida Statutes, permits a party who receives a no cause determination to request a formal administrative hearing before DOAH.

12. To state a claim for employment discrimination under section 760.10, Petitioner must allege facts to show that Respondent was her employer.

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<sup>2</sup> On July 12, 2021, Respondent filed its motions, Respondent's Emergency Motion to Dismiss as a Sanction for Petitioner's Failure to Prosecute the Action and Comply with the Order of Pre-Hearing Instructions and Memorandum of Law and Emergency Motion to Dismiss for Failure of Petitioner to Respond to Discovery Requests ("Motions to Dismiss"). On July 15, 2021, after Petitioner failed to appear for the motion hearing to address the Motions to Dismiss, the undersigned issued an Order to Show Cause. Petitioner failed to respond to the Order to Show Cause.

Otherwise, FCHR does not have jurisdiction over the complaint. *See Enzor v. Fla. Developers, Inc.*, Case No. 08-1228 (Fla. DOAH July 10, 2008; FCHR Sep. 16, 2008); *Kelly v. Fla. Crown Workforce Board, Inc.*, Case No. 06-0483 (Fla. DOAH Mar. 23, 2006; FCHR May 24, 2006).

13. Petitioner alleged in her Petition for Relief that Respondent discriminated against her because of her religion. Section 760.10(1)(a) prohibits discriminating against an employee on account of her religion.

14. Petitioner must prove that Respondent subjected her to discrimination by a preponderance of the evidence. *Dep't of Banking & Fin., Div. of Sec. and Inv. Prot. v. Osborne Stern & Co., Inc.*, 670 So. 2d 932 (Fla. 1996).

15. Petitioner failed to appear and was not otherwise represented at the final hearing. As a result, Petitioner did not offer any evidence to meet her burden of proof that Respondent engaged in employment discrimination against her. Therefore, she has not proven her claim by a preponderance of the evidence.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Florida Commission on Human Relations issue a final order dismissing the petition with prejudice.

DONE AND ENTERED this 27th day of July, 2021, in Tallahassee, Leon County, Florida.



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YOLONDA Y. GREEN  
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 27th day of July, 2021.

COPIES FURNISHED:

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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.