

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2013CP0318
)	EEOC NO.: N/A
JOHN ZAHARAKIS,)	ALS NO.: 13-0116
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Michael Bigger, Amy Kurson, and Cheryl Mainor presiding, upon John Zaharakis's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2013CP0318 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's Notice of Dismissal is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

DISCUSSION

On August 2, 2012, the Petitioner filed a perfected charge of discrimination with the Respondent, alleging that Respondent, Chick-Fil-A, Inc., denied him full and equal enjoyment of its facilities on July 16, 2012, due to his sexual orientation, homosexual, marital status, single, and religion, non-Christian, in violation of Sections 5-101 and 5-102 of the Illinois Human Rights Act. On December 28, 2012, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction finding that the Petitioner is not in a protected category. The Petitioner filed a timely Request for Review.

The Commission concludes that the Respondent erred in determining that the Petitioner in dismissing the Petitioner's charge for Lack of Jurisdiction. The Respondent determined originally determined it had no jurisdiction over Chick-Fil-A, Inc. because Chick-Fil-A, Inc. is a Georgia Corporation and not an Illinois entity. The identified business locations in the Petitioner's charge were franchises in Illinois, and not operated by Chick-Fil-A, Inc., therefore the Respondent concluded that it did not have jurisdiction to investigate this charge. After the Petitioner's Request was filed, the Respondent filed its Response to the Request. In its Response, the Respondent reversed itself and determined that it did have jurisdiction over Chick-Fil-A Inc. though Illinois' Long Arm statute, Section

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

735ILCS 5/2-209, which states there is Illinois jurisdiction for any "person", whether or not a citizen or resident of this State, who in person or through an agent, transacts business within the State, makes or performs any contract or promise substantially connected with the State, or a corporation doing business within the State.

In the Respondent's Response, the Respondent still asked the Commission to sustain the dismissal because it determined that "single individual in non-traditional family unit" is not a protected category. The Act states that sexual orientation, marital status and religion are protected categories. The Petitioner alleged that he is an unmarried homosexual in a "non-traditional" family unit, not that he is just in a non-traditional family unit. The Commission concludes that the Petitioner is in a protected category within the meaning of the Act.

The Commission further concludes that the case should still be dismissed for Lack of Substantial Evidence. In his charge the Petitioner names three Chick-Fil-A franchises. The Commission finds there is no substantial evidence that the Operator of each franchise subjected the Petitioner to unlawful discrimination based on his sexual orientation, marital status, or religion. Section 5-102(B) of the Act states that it is a civil rights violation for any person on the basis of unlawful discrimination to:

“[d]irectly or indirectly, as the operator of a place of public accommodation, publish, circulate, display or mail any written communication . . . which the operator knows is to the effect that any of the facilities of the place of public accommodation will be denied to any person or that any person is unwelcome, objectionable or unacceptable because of unlawful discrimination.”

In the Petitioner's case, the actions of the Operator did not rise to the level of unlawful discrimination. The indirect publications of Cathy, which the Petitioner alleged amounted to discrimination, were not related in any way to the Operator's franchise location and did not influence the day to day operations of her business. Furthermore, there was no evidence that the Operator had no knowledge of the intent of Cathy's statement or how the statement made the Petitioner feel.

As to the Petitioner's argument that the Operator's establishment and Cathy's statements are connected because they are involved in a joint venture, the evidence showed that while Chick-fil-A dictates substantial aspects of franchise operations, none of the corporate policies involved their treatment of patrons, other than those requiring respectful conduct and good service. Most of the policies offered by the Petitioner relate to the procurement of ingredients, safety guidelines for handling food, and maintaining cleanliness and observance of all health codes.

In summary, the Petitioner failed to establish any connection between the personal statements of Cathy and the Operator's place of public accommodation. The Petitioner alleged that he felt unwelcome, objectionable, or unacceptable as a result of the statements, but fails to show how the Operator directly or indirectly published a communication which had that effect. The Operator denied

changing any of its policies or practices after Cathy's statements were made, and the Petitioner has not offered any evidence to rebut that assertion. The company's guidelines for how its franchises were to operate were not reflective of Cathy's statements, and did not contain any language denoting discriminatory practices. The evidence showed that Cathy's statements were not rules for each Chick-fil-a franchise to implement, but rather the personal opinions of the Chief Operating Officer.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED for LACK OF SUBSTANTIAL EVIDENCE.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights and, Chick-Fil-A, Inc., as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

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HUMAN RIGHTS COMMISSION

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Entered this 30th day of October 2018.

Commissioner Michael Bigger

Commissioner Amy Kurson

Commissioner Cheryl Mainor