

**BEFORE  
THE PRINCE GEORGE'S COUNTY  
HUMAN RELATIONS COMMISSION**

---

IN RE: TURNER, Marquis  
:  
:  
:  
Complainant  
:  
:  
By  
:  
:  
Executive Director  
:  
:  
v.  
:  
:  
CISION/VOCUS, INC.  
:  
:  
:  
Respondent.  
:  
:  
:  

---

**CLERK**

**APR 26 2018**

Prince George's County  
Human Relations Commission

HRC Case No.: HRC16-0516  
EEOC Case No.: 531-2016-01157

**ORDER**

This matter comes before the Commission upon consideration of the Joint Motion for Entry of Order of Dismissal (the "Joint Motion"), filed by the Executive Director and Respondent on January 25, 2018.

**I. BACKGROUND**

Under Prince George's County Code ("County Code") Subtitle 2, Division 12, Section 2-185(a), the Prince George's County Human Relations Commission was formed with the purpose of fostering and encouraging "the growth and development of the County in such a manner that all persons shall have an equal opportunity to pursue their lives free of discrimination imposed because of race, religion, color, sex, national origin, age, occupation, marital status, political opinion, personal appearance, sexual orientation, physical or mental handicap, or familial status. Discriminatory practices based upon the foregoing criteria are declared to be contrary to the

public policy of the County.” Under Prince George’s County Code, Subtitle 2, Division 12, Subdivision 2, § 2-193, the Commission has the authority and power to investigate and conduct public hearings adjudicating complaints of unlawful discrimination affecting, *inter alia*, one’s employment. County Code § 2-193; *see also* County Code § 2-222 (prohibiting discrimination in employment).

**A. Factual Investigation**

On April 6, 2016, Complainant Marquis J. Turner filed the subject Charge of Discrimination (the “Charge”) with the Commission and the Equal Employment Opportunity Commission. In the Charge, Mr. Turner alleges that he was wrongfully disciplined and discharged from his employment with CISION/VOCUS, Inc. (“CISION” or “Respondent”) on the basis of race (Black), disability, and in retaliation for engaging in a protected activity. (Charge at 1-2.) Upon receipt of the Charge, the Commission, via the Executive Director, conducted a factual investigation in accordance with County §§ 2-201 and 2-202. In accordance with County Code § 2-202 and Section 2 of the Commission Bylaws, the Executive Director is the individual responsible for supervising the investigators and the investigation and reporting his findings to the Commission. There is nothing to suggest that the Executive Director failed to follow those procedures for the Charge at issue here.

On October 31, 2016, in accordance with Commission’s Rules of Procedure 5(a), the Executive Director issued the Determination in this matter. The Executive Director found that “there is insufficient evidence to support the Complainant’s allegation that he was discriminated against based on his disability and in retaliation for filing an internal complaint.” (Letter of Determination at 4.) However, the Executive Director found sufficient evidence “support[ing] the Complainant’s allegation that he was disciplined and terminated because of his race (Black).”

(*Id.*) Accordingly, the Executive Director found reasonable cause to believe that a violation occurred and the Charge proceeded solely on Mr. Turner's allegation of racial discrimination.

**B. Certification to the Commission for Public Hearing**

In accordance with County Code § 2-203, the Executive Director subsequently contacted the parties to attempt conciliation. Several months later, on February 2, 2017, the parties met in an effort to conciliate this matter, but without success. As a result, this matter was certified by the Executive Director to the Commission for a formal hearing. *See* County Code § 2-204(a) ("Formal hearings shall be convened in cases in which conciliation or mediation has failed"). Here, under County Code § 2-204(a), this matter is prosecuted by the Executive Director, who maintains the claims and interests of Mr. Turner, in an action against CISION.

On February 28, 2017, the Commission issued the Case Scheduling Order setting deadlines for certain events in preparation for public hearings scheduled for June 6 and 8, 2017. Pursuant to the Scheduling Order, the Commission's Employment Hearing Panel (Hearing Panel), required that each party to file its respective pretrial statement by May 15, 2017, and scheduled a pre-hearing conference call for May 26, 2017.

On May 15, 2017, the parties filed their respective pretrial statements. The Executive Director's Pretrial Statement was submitted by the Prince George's County Office of Law ("Office of Law"), who initially served as counsel for the Executive Director in this matter. The Complainant's Pretrial Statement stated that the Executive Director requested a prehearing conference call be scheduled in accordance with the Scheduling Order. There was no request or other indication in the Complainant's pre-hearing statement that the Executive Director (or Mr. Turner) wished to dismiss this matter.

On May 26, 2017, the Commission conducted the prehearing conference call. Respondent, through counsel, and the Executive Director, through a County Attorney, were

present for the call. The parties discussed various issues relating to the hearing and represented that this matter would proceed to the public hearing as previously scheduled. There was no indication from the Executive Director's counsel, the Office of Law, that the County was seeking or would seek to dismiss of the Complainant's Charge.

**C. The Eleventh-Hour Amended Determination and Stipulation of Dismissal**

On June 2, 2017, only two business days prior to the public hearing, the Executive Director, without consulting with the Commission's members assigned to the Hearing Panel, issued an Amended Determination in this matter. The Executive Director, invoking purported authority under County Code §§ 2-202 and 2-222, dismissed the Complainant's Charge for "insufficient evidence" to support his remaining allegation of racial discrimination. (*See* Amended Determination at 1, 3.) The Amended Determination, in conformance with the requirements of County Code § 2-202, advises Mr. Turner of his appeal rights: "Complainant may in accordance with the Rules of Procedure governing the [ ] Commission appeal the decision of the Executive Director, within thirty (30) days from the date of this letter by setting forth reasons for said appeal in a written request[.]" (*Id.* at 3.)

That same day, again without consulting with the Hearing Panel to which this matter was assigned or the Chair of the Commission, the Respondent and Executive Director jointly filed a Stipulation of Dismissal with the Commission. The Stipulation of Dismissal was executed by counsel for Respondent and a County Attorney representing the Executive Director. The Stipulation of Dismissal claims to dismiss all claims asserted in this matter "pursuant to Maryland Rule 2-506(a) and Division 12 of the Prince George's County Code." The Stipulation of Dismissal was silent as to whether Mr. Turner was advised of the Executive Director's action in advance of him filing the Stipulation or whether Mr. Turner consented to the dismissal.

Indeed, the Stipulation failed to state the basis for the dismissal or the basis for purportedly dismissing the matter without consulting with the Commission's Hearing Panel.

**D. Commission Demands Explanation from the Executive Director**

On June 5, 2017, the next business day, the Commission issued the Order to Show Cause. The Order to Show Cause raised several issues related to the Executive Director filing the Amended Determination and Stipulation of Dismissal, including (1) the fact that the appeal period under County Code § 2-202 had not yet expired at the time the Stipulation of Dismissal was filed and (2) questioning whether the Executive Director has statutory authority to enter a determination of dismissal *sua sponte* after this matter had been certified to the Commission for a public hearing. (*See* Order to Show Cause at 1-3.) The Order to Show Cause also articulated the Commission's concern for the Executive Director's "extraordinary" actions in this matter and a potential conflict of interest between the Executive Director, and Mr. Turner moving forward. (*See id.* at 2-3.)

Accordingly, the Commission directed that the Executive Director and his counsel, the Office of Law, show cause and answer the following questions:

- (1) Why the Executive Director and the county attorney(s) representing him in this matter have the authority to enter the Amended Determination and Stipulation of Dismissal after the Complainant's Charge of Discrimination has already been certified to the Commission for a merit hearing;
- (2) Why the county attorney(s) who have been advising the Executive Director in this matter are able to continue to substantially participate in this matter or must recuse themselves for the adverse position the Executive Director, and by imputation the County Office of Law, have taken toward the Complainant's interest after this matter has been certified to the Commission; and
- (3) Who or what entity is responsible for providing and/or paying for counsel to represent the Complainant's interest in this matter moving forward.

(*Id.* at 3-4.) The Order to Show Cause set a briefing schedule for the Executive Director and Office of Law to submit a response. In addition, Mr. Turner and CISION were permitted to submit their respective response at their discretion. (*Id.* at 4.) On June 15, 2017, the Executive Director, represented by the Office of Law, submitted his response to the Order to Show Cause<sup>1</sup>. On July 7, 2017, Respondent submitted its Brief in Response to the Commission's June 5, 2017, Order to Show Cause.

On August 3, 2017, the Commission entered the Omnibus Order vacating the Stipulation of Dismissal and Amended Determination. The Commission held that, upon certification of Complainant's Charge of Discrimination, this matter was within the jurisdiction of the Commission, **not** the Executive Director. (*See Omnibus Order, Aug. 7, 2017, p. 18.*) Further, the Commission found that the Executive Director, and by implication the Office of Law due to its representation of the Executive Director, lacked the authority to abrogate the Executive Director's obligation to represent the Complainant's interest in a post-certification Public Hearing. (*See id.* (citing *State Comm'n Human Relations v. Anne Arundel County*, 106 Md. App. 221, 241-42 (1995))) A Pre-Hearing Conference Call was set for September 7, 2017.

On September 7, 2017, the Commission held the Pre-Hearing Conference Call. The Executive Director, represented by the Office of Law, and Respondent appeared via counsel. The County Attorney represented that the Executive Director would not call any witnesses in support of the case for the Complainant. The call was memorialized in the Pre-Hearing Order of September 12, 2017, which also set the Public Hearing for November 14, 2017. In addition, on September 11, 2017, the Executive Director filed the Request for Hearing Before the Full

---

<sup>1</sup> The Executive Director's counsel, refused a direction by the Commissioners to provide a copy of the Executive Directors' response to Mr. Turner.

Commission, which was denied on September 18, 2017. On November 6, 2017, Respondent filed a Motion to Withdraw Counsel, which was granted on November 9, 2017.

**E. Procedural Matters Raised by Office of Law and Respondent**

On November 14, 2017, the Commission convened the Public Hearing. The Respondent, via counsel, appeared. The Complainant, without counsel, attended the hearing. In addition, the Deputy County Attorney and an Associate County Attorney appeared solely to represent the interests of the Office of Law and the County. (*See Tr.*, Nov. 14, 2017, 8:1-14.) The Executive Director did not appear, alleging that he was out of town even though the matter had been set on September 12, 2017. The Deputy County Attorney explained the position of the Office of Law and the County and stated that the Office of Law would not continue to represent the Executive Director in this matter due to a conflict arising from the Office of Law's duty to represent the Commission in any related appellate proceeding. (*See id.* at 18:19-19:3 (“However, if this case were to be appealed to the Circuit Court, we would be in a position where we would be representing the decision of this body in representing the County . . . and so we see that as a conflict[.]”)) Based on the representations made by the Office of Law, the Deputy County Attorney sought leave to withdraw from the case.

Respondent then argued, in the absence of an attorney to represent Mr. Turner's interest, that Complainant lacked standing to represent himself in proceedings before the Commission due to County Code § 2-204(b), which states that the “case in support of the complaint shall be presented at the hearing by the Executive Director.” (*Id.* at 23:16-24:2).<sup>2</sup>

---

<sup>2</sup> Prior to reaching the merits of the issues raised in this matter, the Public Hearing was ultimately continued in response to Respondent's request for a continuance. Respondent's lead counsel is not licensed to practice law in Maryland. The Commission granted the Respondent's request for continuance due to legitimate concerns that the lead counsel for Respondent could not continue to participate in the hearing without a valid admission to practice law in the State of Maryland; the withdrawal of prior co-counsel removed the basis for Respondent's lead counsel's

On December 22, 2017, the Commission issued an Order addressing the following three discrete issues stemming from the Public Hearing on November 14, 2017:

1. Whether the Office of Law has an obligation to represent the Executive Director in complaints prosecuted before the Commission;
2. Whether the case in support of the Complaint/Letter of Determination be presented by Complainant without the Executive Director; and
3. Whether this instant action be maintained?

The Commission answered the first question presented in the negative and permitted the Office of Law to withdraw its appearance on behalf of the Executive Director in this matter. (Order, Dec. 22, 2017, pgs. 8-9.) On this issue, the Commission recognized that the Office of Law's appearance on behalf of the Executive Director was merely an informal arrangement not recognized under statute or Maryland case authority. *See State Comm'n on Human Relations v. Anne Arundel County*, 106 Md. App. 221, 240-41 (1995) ("Counsel conceded, however, that such delegation was merely an unmemorialized internal agency practice that not had been authorized by any statute, COMAR rule, or, for that matter, any published rule or edict generally discoverable by the public.").

The Commission answered the second question in the negative and found that the Complainant could not present his case in support of the complaint *pro se* at the Public Hearing. (Order, Dec. 22, 2017, at 9-10.) The Commission held it was constrained to rule in this manner due to statute and hearing rules mandating that the Executive Director present the case in support of the complaint. *See* County Code § 2-204(b) ("the case in support of the complaint shall be presented at the hearing by the Executive Director"); Commission Rule 10(a) ("[t]he case in

---

admission *pro hac vice* as the Circuit Court's Order of April 10, 2017 required the presence of the prior sponsor. Ms. Jackson was able to resolve this discrete issue by again seeking admission *pro hac vice*. Via the issuance of an Order by the Circuit Court, Ms. Jackson was granted admission *pro hac vice*. (Order, Case No. MISC763 Nov. 29, 2017.)

support of a complaint . . . shall be presented at the hearing by the Executive Director or designee”). The Commission also held that the Complainant could not be considered a valid designee of the Executive Director. (Order, Dec. 22, 2017 at 10 (citations omitted).)

Finally, the Commission answered the third question in the affirmative and mandated that the Executive Director prosecute this action pursuant to his statutory obligations. The Commission held that absent an appeal to the courts, the Executive Director could not effectively enact appellate review by fiat and overrule the Commission’s prior rulings by refusing to prosecute this action. (*See id.* at 10-11.) Consequently, the Commission ordered D. Michael Lyles, Esq., in his official capacity as the Executive Director of the Commission, to appear at the Public Hearing to present the case in support of the complaint. (*Id.* at 12.) The Public Hearing was scheduled for January 30, 2018 at 6:30 p.m. (*Id.*)

**F. Executive Director Responds with Joint Motion for Entry of Order of Dismissal**

On January 25, 2018, five days before the Public Hearing, the Executive Director and Respondent filed the Joint Motion for Entry of Order of Dismissal. The Executive Director asserts that he “believes a dismissal of the complaint is required given the absence of any evidence to support the allegation that Mr. Turner’s discipline and/or termination were motivated by race,” notwithstanding his prior finding that there was sufficient evidence in the original Determination. (*See* Joint Motion, ¶ 15.) The Executive Director and Respondent further asserted that “there are no disputes of fact or law between the Executive Director and Cision that require resolution by the Commission, and dismissal of Mr. Turner’s Charge before this Commission is appropriate and will not result in any loss of rights by Mr. Turner to seek adjudication of his claims at the EEOC or in court.” (*Id.* at ¶ 17.)

On January 29, 2018, the Commission entered the Order holding the ruling on the Joint Motion in abeyance pending the full Commission's review of the recommendation of the Hearing Panel. After deliberations, the Commission is now able to reach a decision on the recommendation of the Hearing Panel.

## **II. ANALYSIS**

In the Order entered by the Commission on January 29, 2018, the Commission noted that “[i]t would also appear that significant litigation could have [been] avoided if the Executive Director and Respondent could have come to an agreement earlier in the discovery process.” (Order, Jan. 29, 2018, p. 2 (citations omitted).) Indeed, the record reflects that in April 2017, the Executive Director (then represented by the Office of Law), successfully opposed efforts to exchange discovery by invoking provisions of the Commission Rules and County Code. (*See* Executive Director's Opp'n to Respondent's Motion to Compel, Apr. 20, 2017, pgs. 2 (“the Rules of Procedure do not make interrogatories and complainant's deposition part of this administrative process.”).)

Then, on May 8, 2017, the Respondent “produced voluminous documentary evidence” that purportedly caused the Executive Director to issue the Amended Determination and unilaterally decide to dismiss the complaint on June 2, 2017, only four days before the Public Hearing. (*See* Joint Motion at ¶¶ 4-5 (“the Executive Director issued an Amended Determination stating that ‘[a] comprehensive review of documentary evidence received during discovery revealed insufficient evidence to support the Complainant's allegations that his discipline and termination were motivated by race.’”).) This newfound evidence seems to be the basis for the Executive Director's subsequent refusal to prosecute the complaint in this case.

The circumstances surrounding the progression of this action raise significant questions that impugn the core functions of the Office of the Executive Director and the Commission. The

Commission presumes that the evidence ultimately produced by Respondent was legitimate and likely was available during the pre-certification investigation; had there been serious concerns about the propriety of that evidence, the Executive Director surely would have raised that issue with the Commission instead of submitting the Amended Determination. Thus, it is sensible for the Commission to ask why these documents could not have been obtained from Respondent and reviewed during the investigative phase or otherwise exchanged and reviewed well in advance of the Public Hearing.

This question leads the Commission to query the adequacy of the investigation of Mr. Turner's complaint. These questions must be posited with the Executive Director as the ultimate decisionmaker in pre-certification investigations and the person responsible for prosecuting certified complaints before the Commission. No satisfactory answers have been offered to the Commission

The impact of a potentially inadequate investigation and significant procedural irregularities here cannot be overstated. It is not a stretch to state that the events of this case could undermine public confidence in the Office of the Executive Director and the Commission. Members of the public, such as Complainant Marquis Turner, may no longer have faith that the Commission, through the Executive Director, can adequately investigate legitimate complaints of employment discrimination and other wrongful conduct within the Commission's jurisdiction.

In addition, members of the public may no longer trust the Executive Director to prosecute their certified complaints diligently and zealously. We must emphasize that due to the Rules and statute requiring that the Executive Director present the case in support of a certified complaint, the Executive Director is in an especially important position of public trust and responsibility. *See* County Code § 2-204(b); Commission Rule 10(a). Unfortunately, complainants may come to view the Executive Director with cynicism, losing trust in procedural

safeguards for certified complaints. Complainants may believe that their complaints will not be given a fair hearing because the Executive Director could suddenly, without conducting a comprehensive investigation, believe that their complaint is not worth prosecuting and effectively terminate their case by refusing to take action.

Indeed, this case has been botched and effectively terminated by the Executive Director's continued declination to prosecute this action, to engage Complainant,<sup>3</sup> or to properly and appropriately involve the Commissioners. Thus, the Commission has been left no choice in this matter. Consequently, it is with great reluctance that the Commission grants the pending Joint Motion for Entry of Order of Dismissal.

### **III. CONCLUSION**

This Order is a final decision of the Commission in a contested case. Under Section 2-197-C of the Prince George's County Code, states that any party aggrieved by final decision of the Commission in a contested case may be appealed to the Circuit Court of Prince George's County, Maryland pursuant to Title 7, Chapter 200 of the Maryland Rules of Procedure. Such an appeal must be taken, within 30 days from the date of this Order.

Alternatively, the Complainant, Mr. Turner, may request a "right to sue" letter from the United States Equal Employment Opportunity Commission ("EEOC"). The EEOC issues a right to sue letter when the agency cannot determine whether an employer discriminated against an employee; the mere issuance of the letter does not mean that a complainant's case is weak or without merit. The right to sue letter provides a complainant with the right to file a lawsuit against his/her employer for violations of federal anti-discrimination laws. There are strict deadlines associated with a right to sue letter. The Prince George's County Human Relations

---

<sup>3</sup> During the Public Hearing convened on November 14, 2017, Complainant stated, "I feel like my case is honestly compromised because of a lot of what's going on." (Tr., Nov. 14, 2017, 25:6-8.)

Commission does not issue right to sue letters. If Complainant, Mr. Turner, is interested in securing a right to sue letter, he must contact the Executive Director at 14741 Governor Oden Bowie Drive, Suite L105, Upper Marlboro, MD 20772, phone: (301)-883-6170, fax: (301)-780-8244, to request that one be issued. A right to sue letter will normally be issued within 45 days from the date that the request is made.<sup>4</sup>

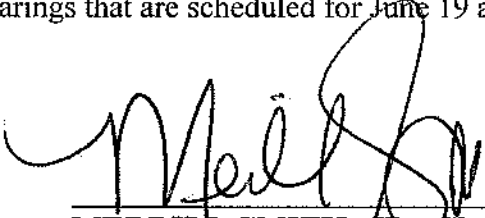
**WHEREFORE**, it is on this 26<sup>th</sup> day of April 2018, hereby:

**ORDERED**, that the Joint Motion for Entry of Order of Dismissal is **GRANTED**; and it is further

**ORDERED**, that *In re: Marquis Turner v. CISION/VOCUS, Inc.*, HRC No. HRC16-0516, EEOC Case No.: 531-2016-01157 is **DISMISSED**, with prejudice solely as to further proceedings before the Prince George's County Human Relations Commission; and it is further

**ORDERED**, that Complainant may file a Petition for Administrative Review with the Circuit Court of Prince George's County, Maryland, in accordance with Title 7, Chapter 200 of the Maryland Rules. Alternatively, Complainant may contact the Executive Director to request a right to sue letter from the EEOC; and it is further

**ORDERED**, that the Public Hearings that are scheduled for June 19 and 21, 2018, are **VACATED**.

  
MERRILL SMITH, JR., Chair  
Prince George's County  
Human Relations Commission

---

<sup>4</sup> Under 13, the option of requesting review before the full Commission is technically available. However, in a certified case, this request for review only vests with the Executive Director and Respondent, not a complainant. Under Rule 14, Rule 10 governs re-hearings before the Commission upon a request for review. As previously ruled by the Commission, Rule 10 mandates that the Executive Director present the case for the complaint. (*See Order*, Dec. 22, 2017 at 9-10.) The inability of a complainant to request a re-hearing *pro se* in a certified case before the Commission highlights the issues with the Executive Director's conduct in this case.

Employment Hearing Panel

Janelle Johnson, Commissioner, Chair  
Katrina Burson, Commissioner  
Troy Lowe, Commissioner

Copies to:

D. Michael Lyles, Esquire  
Executive Director  
The Prince George's County Human Relations  
Commission  
14741 Governor Oden Bowie Drive, Suite L105  
Upper Marlboro, Maryland 20772

Jared M. McCarthy  
Acting County Attorney  
Prince George's County  
Office of Law  
County Administration Building,  
14741 Gov. Oden Bowie Drive  
Suite 5121  
Upper Marlboro, MD 20772

Linda M. Jackson, Esq.  
Alexandra Romero, Esq.  
Arent Fox LLP  
1717 K Street, NW  
Washington, DC 20006

Marquis J. Turner  
1349 Hill Born Drive  
Hanover, MD 21076