



Governor John Kasich

July 28, 2016

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**OHIO
CIVIL RIGHTS
COMMISSION**

LETTER OF DETERMINATION

RE: Council on American Islamic Relations, Ohio v. City of Columbus, Division of Police; COL71(41933)08202015; 22A-2016-02959C

G. Michael Payton
Executive Director

Findings of Fact:

Commissioners

- Leonard Hubert, *Chairman*
- Lori Barreras
- Juan Cspedes
- William W. Patmon, III
- Madhu Singh

On August 20, 2015, Charging Party, Council on American Islamic Relations, Ohio (CAIR-OH), filed an affidavit with the Ohio Civil Rights Commission alleging that Respondent, City of Columbus, Division of Police, engaged in unlawful discriminatory practices. Specifically, CAIR-OH filed a sworn charge alleging a female police cadet, Ismahan Isse, was forced to resign because the police division did not allow her to wear her religiously mandated hijab (headscarf) while on duty. CAIR-OH concurrently alleges Respondent placed a hiring ban on persons who wear a religious headscarf and therefore discriminates against Muslim women due to their sex and religion.

All jurisdictional requirements for filing a charge have been met.

During the investigation, the Commission gathered relevant documents and interviewed Respondent's witnesses. Despite repeated attempts, the Commission was ~~unable to interview a material witness, Ms. Isse, who refused to cooperate with~~ Commission personnel. Based upon the investigation, the Ohio Civil Rights Commission finds that there is insufficient information to establish that Respondent unlawfully discriminated against Ms. Isse on the basis of sex or religion.

Relative to the issue of Ms. Isse's resignation, the investigation confirmed she resigned from Respondent's Academy citing personal reasons. Specifically, Ms. Isse, in her resignation letter, stated: *"I regrettably announce my resignation. After 14 weeks of academy training, I have come to realize that I am not ready for the job that the Columbus Police Officer entails. I am grateful for the opportunities I have received here at the Columbus Police Academy, but at this time I believe it is my best interest to resign and possibly pursue this career at a later date."*

While witnesses did confirm Ms. Isse expressed concern over the inability to wear a hijab, there is no evidence to suggest Ms. Isse was terminated, constructively discharged or even resigned specifically because Respondent did not allow her to wear the headscarf while in police uniform. Without Ms. Isse's direct testimony, the

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Commission must credit Respondent's witnesses on this point. The witnesses stated Ms. Isse never asked to wear a hijab and did not seek a reasonable accommodation of her religious beliefs. Each witness confirmed Ms. Isse resigned prior to becoming a sworn police officer, citing purely personal reasons for the resignation.

CAIR-OH also alleges Respondent placed a ban on hiring Muslim women. The Commission's investigation confirms Respondent does – in fact – hire Muslim women, which is most readily evidenced by the fact that Respondent hired Ismahan Isse. Therefore, the Commission's investigation uncovered no evidence to substantiate there is a ban on hiring Muslim women.

The Commission also examined general allegations concerning the alleged discriminatory application of Respondent's policies. While Respondent did confirm that Ms. Isse was not permitted to wear a headscarf, there is no evidence to suggest she was targeted due to her sex or religion. Respondent is a para-military organization. Respondent has a neutral "Professional Appearance Policy" (Policy No. 11.01). This Policy provides that division personnel shall only wear authorized uniform garments. (Policy, p. 1) Deviations from the Appearance Policy must be approved in advance through the chain of command. (Policy, p. 5) Further, Respondent's witnesses confirmed that religious insignia, such as head coverings, may not be visible on sworn officers while in uniform. Respondent states deviations from the Appearance Policy are categorically denied. Sworn peace officers are mandated to wear designated organization-issued uniforms and emblems for uniformity, safety, and neutrality, which Respondent emphasizes is germane to the position held, despite an employee's sex or religious affiliation.

The Commission could find no evidence suggesting employees of one religious preference are favored over another. Nor could the Commission find evidence that Respondent treats males differently from females. There is no evidence to suggest Ms. Isse requested to wear the hijab as an accommodation of her religious beliefs and was consequently denied. Nor is there evidence to suggest Respondent allowed non-Muslim peace officers the ability to wear headscarves, hats or head coverings, other than those defined in the Professional Appearance Policy, which are permitted only for tactical or weather-related purposes.

Decision:

Based on the investigation conducted in this matter, the Ohio Civil Rights Commission has determined that there is **NO PROBABLE CAUSE** for the Commission to issue an administrative complaint accusing Respondent of an unlawful discriminatory practice. Consequently, the Commission hereby orders that this matter be **DISMISSED**.

NOTICE OF RIGHT TO REQUEST RECONSIDERATION

Pursuant to Ohio Administrative Code 4112-3-04, you have the right to request reconsideration of this determination of the Commission. The application must be in writing and state specifically the grounds upon which it is based.

This request must be sent to the Compliance Department, Ohio Civil Rights Commission, 30 East Broad Street, 5th Floor, Columbus, Ohio 43215. You must submit the request for reconsideration, along with all additional evidence or supporting documentation, within **TEN (10) days** of the date of mailing of this notice. Any application for reconsideration or additional materials received by the Compliance Department in the Commission's Columbus Central Office after the ten-day period has expired will be deemed untimely filed. Extensions of this ten-day filing period are not permitted.

FOR DUAL FILED EMPLOYMENT CHARGES ONLY

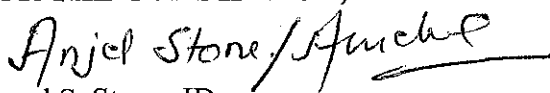
If this charge was filed with both Ohio Civil Rights Commission (OCRC) and the U. S. Equal Employment Opportunity Commission (EEOC), you have the right to request that the EEOC review the OCRC's findings. The request for review must be in writing and sent directly to the offices of the EEOC within **FIFTEEN (15) days** of this determination, unless you request reconsideration by the OCRC. In that event, the final finding, and the time to request review by the EEOC, will be determined by the OCRC's action on the reconsideration request.

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

This determination of the Ohio Civil Rights Commission (OCRC) constitutes a Final Order and is subject to judicial review, wherein the court reviews the contents of this letter and determines if there are sufficient factual findings supporting why the OCRC did not issue a complaint. A petition for judicial review must be filed in the proper common pleas court within **THIRTY (30) days** of the date the OCRC mailed this Final Order. The right to obtain judicial review and the mode and procedure thereof is set forth in Ohio Revised Code 4112.06.

The judicial review process is not a means to reexamine the investigation or further pursue your allegations through the Commission. You may consult with an attorney for information on other available options.

FOR THE COMMISSION,


Angel S. Stone, JD
Columbus Regional Supervisor