

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

SHAWANDA R. MURRY,

Appellant,

v.

Case No. 5D21-1276
LT Case No. 202128412

HONDA OF OCALA,

Appellee.

_____ /

Opinion filed December 3, 2021

Administrative Appeal from the
Florida Commission on Human
Relations.

Shawanda Murry, Ocala, pro se.

John Scotese, Senior Attorney,
Florida Commission on Human
Relations, Tallahassee, for Florida
Commission on Human Relations.

No Appearance for Appellee.

COHEN, J.

Shawanda Murry appeals an administrative order entered by the
Florida Commission on Human Relations (“the Commission”) dismissing her

civil rights complaint against Honda of Ocala (“Honda”). Murry argues that the Commission erred in dismissing her complaint when she had amended it in compliance with the Commission’s instructions. However, because the Commission’s dismissal was warranted on jurisdictional grounds, we affirm.

Our limited record requires us to piece together the series of events that led to Murry’s civil rights complaint. Murry took her vehicle to Honda for service and was dissatisfied with both the service provided and Honda’s failure to respond to her grievances. After numerous unsuccessful attempts to resolve the matter with Honda, Murry filed a civil rights complaint with the Commission.¹ In response, the Commission sent her a “Notice to Amend” letter explaining that it could not launch an investigation because Honda was not a place of public accommodation.² The Commission advised Murry of her right to amend her complaint within 60 days and, although under no obligation to do so, directed her to an employee for guidance.

When she contacted the employee, Murry was advised that (1) she received the notice to amend because she “complained against an entity that

¹ The complaint is not included in the record.

² “Public accommodations” are defined as “places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments.” § 760.02(11), Fla. Stat. (2020).

does not fall under [the Commission's] jurisdiction"; (2) to amend her complaint, Murry must submit information demonstrating that Honda is a place of public accommodation; and (3) she may wish to visit Florida's Department of Agriculture and Consumer Services' ("Consumer Services") website for assistance with her complaint by following a link included in the correspondence.

Murry followed the link and completed a Motor Vehicle Repair Consumer Complaint Form, articulating her grievances against Honda. It appears that she then sent that form back to the Commission, mistakenly believing that it would satisfy the requirement to amend her complaint, when the form should have been returned to Consumer Services. In turn, the Commission sent Murry a notice of dismissal, repeating the issue depriving it of jurisdiction:

The [Commission] is in receipt of your complaint, alleging discrimination in violation of sections 760.01-760.11, Florida Statutes, the Florida Civil Rights Act. The Commission previously notified you that the information submitted on your complaint was insufficient for the Commission to begin its investigation. Pursuant to Rule 60Y-5.001(7), Florida Administrative Code, you were given 60 days to amend your complaint to identify technical defects and omissions or to clarify the allegations. Considering all information received, the Commission does not have authority to investigate, and the complaint will be dismissed.

Believing that she had complied with the Commission's requirements for amendment by submitting the Consumer Services form in a timely fashion, Murry expressed her desire to appeal the Commission's dismissal of her complaint. As a result, the Commission filed a notice of appeal with this Court on Murry's behalf, naming Honda as Appellee.³ Several months after the notice of appeal was filed, the Commission moved to be dismissed from the appeal as a non-party in interest. That request was granted.

In this appeal, Murry repeats her allegations against Honda and argues that she amended her complaint in a timely fashion, pursuant to the Commission's instructions. While true, the Commission's basis for dismissal was jurisdictional, and Murry's attempted amendment failed to cure that defect. The fact that Murry misinterpreted a recommendation from a Commission employee cannot establish that the Commission has jurisdiction. See 84 Lumber Co. v. Cooper, 656 So. 2d 1297, 1298 (Fla. 2d DCA 1994) ("It has been the historic law of this state that '[s]ubject matter jurisdiction cannot be created by waiver, acquiescence or agreement of the parties, or by error or inadvertence of the parties or their counsel, or

³ The record is silent as to whether Honda ever received notice of Murry's complaint below; it would appear unlikely, given that the Commission never initiated an investigation due to its lack of jurisdiction.

by the exercise of power by the court; it is a power that arises solely by virtue of law.” (citation omitted)).

Despite the style of this case, the issue on appeal does not concern any actions, or inactions, taken by Honda. Rather, Murry’s appeal seeks redress from the Commission’s action in dismissing her complaint. Having found no error in that regard, we affirm.

AFFIRMED.

EISNAUGLE and WOZNIAK, JJ., concur.