

IN THE MATTER OF:

Complainant,

and

Pedro Heredia Designs,

Respondent.

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CHARGE NO(S): 2019CE3303

EEOC NO(S): **N/A**

ALS NO(S): **22-0363**

Tracey Fleming
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

<p>IN THE MATTER OF:</p> <p>JUAN J. YANEZ,</p> <p style="text-align:right">Complainant,</p> <p style="text-align:center">v.</p> <p>PEDRO HEREDIA DESIGNS,</p> <p style="text-align:right">Respondent.</p>	<p>IDHR Charge No.: 2019-CE-3303 EEOC No.: N/A ALS No.: 22-0363</p> <p>Chief Administrative Law Judge Brian Weinthal</p>
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RECOMMENDED ORDER AND DECISION

At the most recent status hearing that was conducted in this matter, Complainant Juan J. Yanez (“Complainant”) announced his desire to voluntarily dismiss his complaint. *See* Order (entered Aug. 15, 2023). However, notwithstanding the provision of detailed guidance from this administrative court on how to accomplish this goal, Complainant has declined to file a motion for voluntary dismissal by the deadline that was previously imposed by this administrative court. Accordingly, to prevent this case from lingering on my docket, I am dismissing this action and the underlying charge of discrimination with prejudice pursuant to 56 Ill. Admin Code § 5300.750(e).

FINDINGS OF FACT

On August 15, 2023, I convened a virtual status hearing for the purpose of closing discovery. *See* Order (entered Aug. 15, 2023). Complainant—who is deaf—attended the status hearing *pro se* on his own behalf. *See id.* Complainant was assisted in his communications with this administrative court by both an American Sign Language (“ASL”) interpreter of his choosing and an additional ASL interpreter retained by the Illinois Human Rights Commission (the

“Commission”) at no cost to Complainant. *See id.* During the virtual hearing, Complainant expressed his desire to voluntarily dismiss this matter and to forego any further efforts to pursue recovery against Respondent Pedro Heredia Designs. *See id.*

In response to this overture, I advised Complainant that to dismiss this case, all he needed to do was file a motion for voluntary dismissal. *See id.* I notified Complainant that a one-page, fillable PDF for creating such motions was available on the website of the Commission, and that such a motion (once completed) could be filed with this administrative court and served on opposing counsel by e-mail. *See id.* To ensure Complainant remained accountable for taking the steps necessary to close this case, I ordered Complainant to file his motion for voluntary dismissal on or before August 25, 2023. *See id.* Yet as of the date of this recommended order and decision, Complainant has neither filed a motion for voluntary dismissal nor requested an extension of time in which to do so. Therefore, to expedite the fulfillment of Complainant’s wishes, I am exercising my discretion to dismiss this matter with prejudice under 56 Ill. Admin Code § 5300.750(e).

DISCUSSION

Under the Illinois Human Rights Act, an administrative law judge of the Commission has authority to recommend dismissal with prejudice where a complainant fails to prosecute his or her case. *See* 775 ILCS 5/8A-102(I)(6). This authority is further embodied in the procedural rules of the Commission, which—consistent with the Human Rights Act—provide for the possibility of dismissal with prejudice where a party: (1) fails to appear at a scheduled hearing; (2) fails to comply with an order of this administrative court; or (3) engages in other conduct that unreasonably delays or protracts proceedings. *See* 56 Ill. Admin. Code § 5300.750(e). Where a dismissal with prejudice is recommended by an administrative law judge and subsequently confirmed by the Commission, that action will not be overturned on appeal absent an abuse of

discretion. *Mifab, Inc. v. Ill. Human Rights Comm'n & Clint Towers*, 2020 IL App (1st) 18198, ¶ 41, 164 N.E.3d 1252 (citations omitted). Such abuses occur only where an action by the Commission is “arbitrary and capricious,” or where the sanction imposed is “overly harsh in view of the mitigating circumstances.” *Tolliver v. Housing Auth. of Cook*, 2017 IL App (1st) 153615, ¶ 37, 82 N.E.3d 1220 (citation omitted).

Here, Complainant’s failure to file a motion for voluntary dismissal has resulted in this action remaining on my docket nearly a month after Complainant confirmed that he had no intention of proceeding with the case. While perhaps reflective of the idea that Complainant has now absolved himself of any continuing responsibility in this matter, the reality is that Complainant still had an obligation to file paperwork on dismissal in the same manner as litigants who wish to terminate their cases before other judicial forums. By failing to address this important step (after being ordered to do so by this administrative court), Complainant ran afoul of his continuing responsibility to diligently pursue this case—which necessarily included any final efforts necessary to conclude or close proceedings. *See In the Matter of Rodriguez v. Nestle USA, Inc.*, 2010 ILHUM Lexis 313, at *4 (Nov. 18, 2010). Accordingly, to prevent the closure of this case from being delayed any further, I am dismissing this matter and the underlying charge of discrimination with prejudice pursuant to 56 Ill. Admin. Code § 5300.750(e).

RECOMMENDATION

For the reasons set forth above, I hereby dismiss this case and the underlying charge of discrimination with prejudice pursuant to 56 Ill. Admin. Code § 5300.750(e).

HUMAN RIGHTS COMMISSION

BY:

BRIAN WEINTHAL
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: September 11, 2023