

Supreme Court of Florida

No. SC96908

GERALDINE SEALE,
Petitioner,

vs.

EMSA CORRECTIONAL CARE, INC.,
Respondent.

[September 14, 2000]

QUINCE, J.

We have for review a decision of the Second District Court of Appeal that cited as controlling authority Joshua v. City of Gainesville, 734 So. 2d 1068 (Fla. 1st DCA), review granted, 735 So. 2d 1285 (Fla. 1999), which was then pending on review in this Court. See Seale v. EMSA Correctional Care, Inc., 744 So. 2d 1002 (Fla. 2d DCA 1999) (table report of unpublished order). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981). Based on our recent decision in Joshua v. City of Gainesville, No. SC94935 (Fla. Aug. 31, 2000), we

quash the decision of the district court.

Geraldine Seale (Seale) filed charges of discrimination against EMSA Correctional Care, Inc., (EMSA) with the Florida Commission on Human Relations (the Commission) on February 28, 1996. The Commission did not make a reasonable cause determination within the 180-day period embodied in section 760.11(8).¹ On March 13, 1998, Seale filed a single-count complaint in the Circuit Court of the Tenth Judicial Circuit alleging EMSA violated the Florida Civil Rights Act of 1992 by discharging Seale because of a handicap.²

EMSA filed a motion for summary judgment alleging Seale's action was barred by the one-year statute of limitations set forth in section 760.11(5), Florida Statutes (1995).³ EMSA claimed that the one-year statute of limitations began to run at the end of the 180-day period when the Commission failed to make a reasonable cause determination. The trial court agreed and granted summary judgment in favor of

¹ Section 760.11(8), Florida Statutes (1995), provides in pertinent part: "In the event that the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days of the filing of the complaint, an aggrieved person may proceed under subsection (4), as if the commission determined that there was reasonable cause." Section 760.11(4), Florida Statutes (1995), explains steps that claimants may take if the Commission has determined there is reasonable cause to believe that discriminatory action has occurred.

² See § 760.10(1)(a), Fla. Stat. (1995).

³ Section 760.11(5), Florida Statutes (1995), provides in pertinent part: "A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission."

EMSA. The Second District affirmed the trial court's grant of summary judgment, citing Joshua v. City of Gainesville, 734 So. 2d 1068 (Fla. 1st DCA), review granted, 735 So. 2d 1285 (Fla. 1999), as controlling authority. In Joshua, the First District Court of Appeal held the one-year statute of limitations applies when the Commission fails to make a reasonable cause determination within 180 days. See id. at 1071. However, the First District certified the following as a question of great public importance:

DOES THE SECTION 760.11(5), FLORIDA STATUTES (1995), ONE-YEAR STATUTE OF LIMITATIONS FOR FILING CIVIL ACTIONS "AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION" APPLY ALSO UPON THE COMMISSION'S FAILURE TO MAKE ANY DETERMINATION AS TO "REASONABLE CAUSE" WITHIN 180 DAYS AS CONTEMPLATED IN SECTION 760.11(8), FLORIDA STATUTES (1995), SO THAT AN ACTION FILED BEYOND THE ONE-YEAR PERIOD IS TIME BARRED?

We recently answered this question in the negative and held that the general four-year statute of limitations for statutory causes of action embodied in section 95.11(3)(f), Florida Statutes (1999), applies when the Commission fails to make a reasonable cause determination within 180 days. See Joshua v. City of Gainesville, No. SC94935 (Fla. Aug. 31, 2000). Because the Second District's decision in Seale relied upon the decision of the First District in Joshua, we quash the decision below and remand for

further proceedings not inconsistent with this decision.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, PARIENTE and LEWIS, JJ.,
concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF
FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal -
Direct Conflict

Second District - Case No. 2D98-04187

(Polk County)

Richard J. Manno, Orlando, Florida; and Bill McCabe, Longwood, Florida,

for Petitioner

John M. Hament and Nikhil N. Joshi of Kunkel, Miller & Hament, Sarasota, Florida,

for Respondent