

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington Street, Suite 3040

Chicago, Illinois 60602

Cheryl ASH, Complainant)

v.)

COOK COUNTY JUVENILE)
TEMPORARY DETENTION CENTER,)
Respondent)

Case No. 2008E048

Entered: August 4, 2014

ORDER

On October 1, 2008, Complainant Cheryl Ash (“Ash”) filed a complaint with the Cook County Commission on Human Rights (“Commission”), alleging that her employer, Respondent Cook County Juvenile Temporary Detention Center (“JTDC”), engaged in sex and race discrimination when she received a write up for insubordination. Ash’s complaint is atypical of those filed with the Commission. She alleges that when her supervisor at the JTDC inquired about an overheard comment, Ash retorted, “I do not think that I have to explain to you what or why I said that.” Compl. ¶ II.B. Ash then states that later on that same day, she “interrupted” her supervisor while her supervisor was speaking. *Id.* In other words, Ash’s complaint facially demonstrates that she was insubordinate – not the victim of discrimination. As noted in prior decisions, the Commission “is not an appropriate forum for hashing out an employer-employee dispute, unless that conflict alleges a violation of the Human Rights Ordinance.” *Evans v. Tudor, et. al*, 2013E008, *4 (CCHRC Oct. 25, 2013). The Commission would dismiss Ash’s claim against the JTDC on the merits were it not for the fact that the Commission learned during the course of its investigation that this matter is outside of its jurisdiction under the Cook County Human Rights Ordinance (“Human Rights Ordinance”).

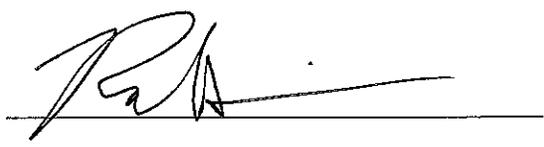
The Human Rights Ordinance prohibits an “employer” from “directly or indirectly discriminat[ing] against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.” Cook County Code of Ordinances (“County Code”), § 42-35(b)(1). The government of the United States, however, is specifically excluded from the operative definition of “employer” as that term is used in the Human Rights Ordinance. *See id.* at § 42-31 (also excluding Indian tribes, state governments and agencies and the government of any municipality in Cook County). The Commission must dismiss claims filed against employers who are beyond its jurisdiction. *See, e.g., McCarroll v. Mulligan Mgmt., et. al*, 2011E002, *4-5 (CCHRC Jan. 8, 2014) (dismissing complaint against a supportive living facility owned by the Village of Dolton).

Here, the JTDC, though ostensibly a County facility, is being run by the federal government. As part of the pending lawsuit *Doe v. Cook County*, No. 99 C 3945 (N.D. Ill.), Cook County entered into an agreement on August 14, 2007, by which United States District Court Judge John A. Nordberg appointed a Transitional Administrator with the authority “[t]o oversee, supervise, and *direct all* management, administrative, financial, contractual, *personnel*, security, housing, custodial, purchasing, maintenance, technology, health services, mental health services, food and laundry service, recreational, educational and programmatic functions relating to the operation of the JTDC[.]” Order, No. 99 C 3945 at ¶ 5.b (Aug. 14, 2007) (emphasis supplied). For the purpose of enforcing the Human Rights Ordinance, the Transitional Administrator is not the same County employer that existed at the JTDC on August 13, 2007. Instead, per Judge Nordberg’s order, the Transitional Administrator that now acts as the employer at the JTDC is an agent of the federal government, *id.* at ¶ 2 (“The TA shall be an agent of this Court[.]”), and beyond the reach of the Human Rights Ordinance.

For the foregoing reasons, the Commission orders that complaint 2008E048 be DISMISSED for LACK OF JURISDICTION. In accordance with CCHR Pro. R. 480.100(A), either party may file a request for reconsideration with the Commission within 30 days of the date of this order.

August 4, 2014

By delegation:

A handwritten signature in black ink, appearing to read 'Ranjit Hakim', is written over a horizontal line.

Ranjit Hakim
Executive Director of the Cook Commission
on Human Rights