

COOK COUNTY COMMISSION ON HUMAN RIGHTS
69 West Washington St., Suite 3040
Chicago, Illinois 60602

George BLAKEMORE, Complainant)	Case No. 2013PA004
)	
v.)	Entered: February 27, 2015
)	
STARBUCKS COFFEE COMPANY,)	
Respondent)	

ORDER DENYING REQUEST FOR RECONSIDERATION

On December 13, 2013, Complainant George Blakemore (“Blakemore”) filed a complaint against Respondent Starbucks Coffee Company (“Starbucks”) with the Cook County Commission on Human Rights (“Commission”). Blakemore alleged that Starbucks violated the Cook County Human Rights Ordinance (“Human Rights Ordinance”) when a Starbucks employee asked Blakemore to leave a store restroom but allowed him to purchase a cup of coffee and stay in the store to drink it. *See* Compl., ¶¶ II, III. On December 23, 2013, the Commission dismissed Blakemore’s complaint for a lack of substantial evidence of a violation of Section 42-37(a) of the Cook County Code of Ordinances (“County Code”). The Commission found that it lacked jurisdiction to hear Blakemore’s race discrimination claim because the incident occurred within the jurisdiction of the Chicago Commission on Human Relations. *Blakemore v. Starbucks*, 2013PA004, *2 (CCHRC Dec. 23, 2013) (“Dismissal Op.”). The Commission dismissed Blakemore’s housing status discrimination claim because the allegations in his complaint showed that although his use of the store’s restroom was disrupted, after a conversation with store employees, he was allowed full use of the public accommodation as evidenced by his ability to purchase the goods sold at the store and enjoy them on premise. *Id.*

Blakemore moved for reconsideration of the dismissal of the housing status discrimination charge on January 21, 2014. To date, Starbucks has not filed a responsive brief to Blakemore’s motion or sought additional time to do so.¹ Nonetheless, the Commission now denies the request for reconsideration.

DISCUSSION

Blakemore’s request for reconsideration argues that the Commission exhibited bias towards him and misapplied the law. Req. for Reconsider. (“Req.”), p. 1. Both arguments are

¹ A request for reconsideration must be served “on all other parties within 30 days from the date of the Commission Order.” CCHR Pro. R. 480.100(A). Blakemore’s January 21, 2014 request for reconsideration does not include a certificate of service. This suggests that Starbucks’ 13-month silence on this matter may be attributable to Blakemore’s failure to provide the Respondent with notice of his pending motion.

unpersuasive.

Blakemore cites as evidence of bias: (1) that the Commission dismissed his complaint prior to receiving a verified response from Starbucks; (2) that the Commission's order of dismissal used the word "altercation" to describe Blakemore's interaction with an unnamed Starbucks employee between exiting the restroom and ordering a cup of coffee; and (3) that the Commission's order was insufficiently detailed as to which stage of a bowel movement Blakemore had completed at the point when his use of the restroom was interrupted. Taking these items in order, Blakemore cites no authority for the proposition that the Commission must investigate each complaint in the manner preferred by the complainant. Nor could he. To the contrary, local human rights commissions do not even have a legal obligation to investigate each complaint filed. *See, e.g., Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (noting that the decision to not investigate a claim involves a complicated balancing of various factors that are "peculiarly within [the agency's] expertise," including whether a violation has occurred, whether the agency's resources are better used elsewhere, whether its action would result in success, and whether there are sufficient resources available to take any action at all); *Carter v. District of Columbia*, 980 A.2d 1217, 1223-24 (D.C. 2009) (noting that a dismissal by the District of Columbia Office of Human Rights may constitute an "exercise of prosecutorial discretion not to commit resources to the claim."). Instead, like any other regulatory agency, the Commission has the absolute discretion to make choices about how best to deploy a limited set of taxpayer-funded resources in individual cases brought to its attention to achieve maximum compliance with the Human Rights Ordinance across its docket. Here, the Commission was able to reach a determination that the further investment of public resources was not likely to result in the finding of an ordinance violation from the face of Blakemore's complaint.

As to the second item cited by Blakemore as evidence of bias, the Commission's dismissal opinion accurately summarizes the allegations Blakemore included in his complaint. The dismissal opinion does not always quote the complaint verbatim, but in rendering its decisions, the Commission does not have to use exactly the same words that a complainant or other witness used to explain why the Commission reached the decision it reached. In his complaint, Blakemore alleged that:

I came out of Respondent's restroom *and protested* to Respondent's employee that he had no reason to knock on the door and disrupt me from using the facilities.

Respondent's employee *threatened to call the police on me* but I told him it was not a police matter and I intended to buy something.

Compl. ¶ III.C.-D. (emphasis supplied). These two paragraphs describe a public disagreement that Blakemore supposedly had with an unnamed Starbucks employee. The Oxford Dictionary defines an "altercation" as an "argument or disagreement, especially in public."² The

² "Altercation," *Oxford Dictionary*, online at http://www.oxforddictionaries.com/us/definition/american_english/altercation (visited Jan. 21, 2015).

Commission is satisfied that the use of this term to summarize the exchange of protest and threats in a busy coffee shop is not evidence of bias.

Similarly, on reconsideration, Blakemore claims that “I left the restroom before I was able to complete my bowel movement.” Req., p.1. But there is no allegation in the complaint that he filed that this is so. In his complaint, Blakemore alleges only that:

On or about July 20, 2013, I entered Respondent and attempted to use Respondent’s public restroom.

While I was in the restroom for 2 to 3 minutes, Respondent’s employee (black male, name unknown) knocked on the door and told me, “you get out, you’re homeless. Are you going to buy anything?”. He stated that homeless and black individuals sleep there overnight, which is not permitted.

I came out of Respondent’s restroom and protested to Respondent’s employee that he had no reason to knock on the door and disrupt me from using the facilities.

Compl. ¶ III.A.-C. Blakemore does not allege in his complaint that he came out of Respondent’s restroom “before [he] was able to complete [his] bowel movement.” Rather, he only alleged that he “came out of Respondent’s restroom and protested to Respondent’s employee.” *Id.* at ¶ III.C.

Even if Blakemore could amend his complaint at this late date to add this detail, the Commission’s decision would not change. The legally important allegation is not that Blakemore’s use of the restroom was initially disrupted (if it was), but rather that his ultimate use of the public accommodation – which is far more than the restroom – was unimpeded. Blakemore does not allege that he was ejected from the Starbucks, nor does he allege that the Starbucks refused to serve him. Instead, he alleges that after the altercation about the restroom, he “proceeded to the front counter and made a purchase from 2 white baristas” and was allowed to sit and drink his coffee while he observed other patrons at the Starbucks. *Id.* at ¶ III.E.-F. These allegations are flatly inconsistent with Blakemore’s assertion on reconsideration that his access to the Starbucks was limited on the basis of his perceived housing status. *See* Req., p. 2.

As the Commission explained in *Morris v. Wal-Mart Stores, Inc.*, the prompt restoration of a customer’s full use a public accommodation vitiates any claim that may arise under the Human Rights Ordinance from its earlier limitation. 2012PA003, *2 (CCHRC Oct. 17, 2013). Any other rule would disincentivize owners of public accommodations in Cook County from correcting their own potentially discriminatory conduct without government intervention. *Id.* Blakemore’s request for reconsideration succeeds in expressing his displeasure with this rule of law, but does nothing to explain why it is incorrect.

CONCLUSION

For the foregoing reasons, the Commission DENIES Complainants’ REQUEST FOR RECONSIDERATION of its Dismissal of Complaint No. 2013PA004 for Lack of Substantial

Evidence. In accordance with CCHR Pro. R. 480.115, Complainants may seek administrative review of this decision by petitioning the Chancery Division of the Circuit Court of Cook County for a writ of certiorari.

February 27, 2015

By delegation:

A handwritten signature in black ink, appearing to read 'R. Hakim', with a horizontal line extending to the right.

Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights