IN THE
SUPREME COURT OF FLORIDA

GORDON WAYNE WATTS,
Individually and on behalf of
other similarly situated **minorities**
In the State of Florida,

Petitioner/Plaintiff/Appellant,

Vs.

FLORIDA COMMISSION
ON HUMAN RELATIONS,
Respondent/Defendant/Appellee.
_____/

CASE NO.: SC04-not determined yet
Assigned to: SC04-68
Lower Tribunal No.: 2D02-4061

FCHR No.: 22-1590

ON APPEAL FROM THE DISTRICT COURT OF APPEAL
OF THE SECOND JUDICIAL DISTRICT
IN AND FOR THE STATE OF FLORIDA

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INITIAL BRIEF OF THE APPELLANT

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PREFACE

This appeal is based on the final decision, per curiam, of the District Court of Appeal, of the Florida Second Judicial District:

This appellate court, in a final order dated December 08, 2003, denied relief by affirmation of the lower tribunal decision and so did in a per curiam judicial opinion presented as that of an entire court rather than that of any one judge and filed without giving Appellant the benefit of a written opinion.

For the purposes of this appeal, the following reference words and symbols will be used throughout this brief:

"Petitioner" will refer to Plaintiff / Petitioner / Appellant, Gordon Wayne Watts;

"Respondent" and "Lower Tribunal" will refer to Defendant / Respondent / Appellee, The Florida Commission on Human Relations; and,

"Appellate Court" will refer to the Florida Second District Court of Appeals.

"This Honorable Court" will refer to this Honorable Supreme Court of Florida.

"FCHR" will refer to the Florida Commission on Human Relations.

"TPD" will refer to the Tallahassee Police Department.

"FSU" will refer to State University, The Florida State University.

"R" will refer to citations from the Record On Appeal, as compiled by the Clerk of the Lower Tribunal.

“/s/” and "Fla. Stat." will refer to section and citation of Florida Statutes.

"Fla.R.App.P." will refer to Florida Rules of Appellate Procedure.

ISSUES ON APPEAL

*** Whether the Appellate Court, inherently declared invalid /s/ 760.01 (3), Fla. Stat., (which guarantees Fla. Civil Rights Act is liberally construed) by virtue of its refusal to apply given standard to the FCHR agency rules and overturn.**

*** Whether the Lower Tribunal's decision to affirm FCHR's dismissal and closing of file was based soundly on the agency rules of the Florida Commission on Human Relations (FCHR), as supported by State and Federal law, case law, and State and Federal Constitutional rights.**

*** Whether the State Laws in question are Unconstitutional due to their lack of Due Process to inform the Florida public of Fla. Civil Rights Act and its Equal Protection of all Florida citizens.**

*** Whether preventative remedies exist to make the public aware of the existence and mission of the FCHR.**

*** Whether Fla.R.App.P. 9.030(a)(1)(A)(ii) requires that the Appellate court "expressly" declare INVALID a statute to invoke mandatory appeal jurisdiction of The Supreme Court of Florida - in the same way that Fla.R.App.P. 9.030 (a)(2)(A) uses the term "expressly" in sections (i) to (iv).**

STATEMENT OF THE CASE AND FACTS

On many occasions preceding the 2000 Election Season, Petitioner attended varied political rallies and public events in the Tallahassee area while a student at The Florida State University. At various Republican events, Petitioner displayed Native American (Indian) attire for the purposes of convincing undecided voters that the Republican political party was inclusive for minorities (e.g., Blacks, Indians, Hispanics, Asians, etc.). Petitioner encountered no discrimination or prejudicial treatment with one exception, described following:

The late Marty Glickman of Tallahassee, Florida, invited the public to a public political rally via his "Republican Marty" call-in phone line. (R:000052 - "ITEM 2," which the clerk of Lower Tribunal did not include in record on appeal)

On 07 November 2000, Petitioner was invited to and attended this event at 101 Adams Street in Tallahassee, Florida, while a college student at FSU. While attending this "election reception," at the Double Tree Motel Chain, owned by the Hilton Hotel chain, at that address, Petitioner displayed a small feather on the head (Record: 000003) as a "hat" or headdress "apparel" to indicate his Native American heritage and ethnic background. Contrary to the Police Report remarks (R:000001-

000006) or insinuations, Petitioner did not have a "bow and arrow" or any other such questionable items in his possession. As indicated by the Police Report (R:000001-000006), un-notarized statements of witness testimony (R:000007), albeit second-hand, and statements of the Petitioner himself (in this statement of the case and facts), Petitioner did not cause a disturbance or otherwise provoke any person.

Petitioner was asked to leave the event by a Police Officer, who claimed to be working security.

On Monday, 20 November 2000, Petitioner obtained a statement from the secretary of the late Marty Glickman (R:000007), which was an un-notarized, second-hand testimony.

Petitioner was not aware of the proper channels for asking the Florida Commission for Human Relations (FCHR) to investigate at that time. In fact, Petitioner did not know the FCHR existed, however, Petitioner, Gordon Watts, knew that the State of Florida had provided some adequate means to review this matter and made many attempts to ascertain the proper channels as outlined below:

Attempts to contact a police supervisor to resolve the conflict were futile, because the Officer's supervisor was not on duty at the time, as the Officer was apparently working

off duty as security. After repeated requests by Petitioner to the Tallahassee, Florida Police Department to provide a written documentation by Police Report - and threats of lawsuit - TPD Captain Argatha Gilmore-Rigby eventually ordered the Officer in question to write a report. The report (R:000001-000006) was written on 12-14-2000, about 5 weeks after the incident, and the report finally became available to Petitioner January 22, 2001, about 5 weeks after that, a total of about 10 weeks, one day, after the incident in question.

At that time, Petitioner determined that the partial treatment was based on racial / ethnic heritage.

Petitioner still neither knew that FCHR existed nor any time limits for filing, but understood the urgency for resolving this issue - and attempted to contact the proper agency as follows:

Many phone calls were made to State offices in phone records submitted to the Clerk of the Lower Tribunal. (R:000052-000055) Some of these phone records

were included in the Record on Appeal. Some were not.

Petitioner began contacting the Governor's office and other state agencies immediately after the incident in attempts to locate the proper agency to address this matter.

After obtaining a copy of the police report on Monday, 22 January 2001, Petitioner personally visited the Governor's mansion to seek agency assistance, on Thursday 25 January 2001, as Petitioner resided in college dorms a few blocks away. Very close to 5 pm that day, closing time, Petitioner Gordon Watts gave a copy of report to a middle aged receptionist named "Georgia," and urgently asked for direction to the proper agency. On Friday, 26 January 2001, Petitioner personally visited the Insurance Commissioner's office, gave them a copy of Police Report, and spoke to a blond-haired woman named "Dolly," and asked for referral to the proper office. Petitioner also asked her to look into claims by this officer that he was working for the Insurance Commissioner's office at the political rally open to the public. That Friday the 26th, Petitioner also spoke to an Elsie Borden who worked across the hall at the Education Commissioner's office and asked for referral to the proper agency. That day, Petitioner asked Allison Long of the Tallahassee Democrat

newspaper for news coverage to put pressure on the government agencies responsible to address this matter. Petitioner also spoke by telephone to a Fred Graham in the Insurance Commissioner's office, who claimed this event was "semi-public" or words to that effect.

Petitioner also spoke that day with Dennis Morgan, General Manager of the Double Tree Motel, in attempts to resolve the conflict.

Citations documenting when Petitioner contacted specific offices shall be made in the Argument section of this brief.

After repeated attempts to retain a lawyer or resolve the conflict, Petitioner was advised that there was a "seven-year" statute of limitations on bringing this type of complaint by a "Pre-Paid" Legal Services lawyer. Petitioner became very busy with school work and temporarily postponed attempts to resolve this matter, confident time existed to resolve this matter.

On Sunday, August 12, 2001, Petitioner returned home from college with a degree. After some time off and after the interruption of the 09/11 terrorist attacks on daily routine, Petitioner again made attempts to resolve this matter.

One attempt was in a phone call to Respondent, FCHR, slightly less than a year after Petitioner discovered evidence of racial mistreatment.

Respondent responded many months later (R:000021) and claimed complaint wasn't

timely filed and rejected complaint and closed file.

Petitioner eventually sought the relief of The Second Appellate District Court of Florida., which graciously granted Oral Arguments on 08 October 2003, in the 11:00 am session, and the representatives of record from both sides presented lively oral arguments.

This appellate court, in a non-final order dated October 24, 2003, denied relief by affirmation of the lower tribunal decision and so did in a per curiam judicial opinion presented as that of an entire court rather than that of any one judge and filed without giving appellant the benefit of a written opinion.

Petitioner comes now, in a timely fashion, in appeal to This Honorable Court for relief, Pro Se and in the stead and on behalf of other similarly situated minorities - without the benefit of the mind and written opinion of the lower tribunal appellate

court. (Petitioner is concurrently petitioning the lower tribunal for "clarification" in the form of a written opinion, but the relief, if granted, may be moot, in that This Honorable Court may make its decision without the benefit of any new input thereby received. In total, Petitioner is concurrently rendering motions of "Clarification," "Rehearing," "Certification," "Oral Arguments," and submitting as "Brief on the Jurisdiction" to This

Court, in addition to the "Initial Brief of the Appellant," here.)

Initial Brief of the Appellant, here, is **far less** than the fifty (50) page maximum, mandated by Fla.R.App.P. 9.210 (a)(5).

SUMMARY OF ARGUMENT

The lower tribunal needed only to, by its findings of fact and findings of law, affirm any one of the three (3) arguments raised in the initial and reply briefs: State Law, Agency Rules, or Case Law, the third of which clearly invokes the Constitutional Issues (a "fourth argument") explored in more detail here. Although Appellant did not "explicitly" mention Constitutional conflict in his briefs or oral arguments, nonetheless, the case law cited

brought up the appellate court's obligation to give opportunity "sufficient to afford due process and equal protection," (Declaration of Rights, $$ 1, 12. McRae v. Robbins 9 So.2d 284, 151 Fla. 109 (Fla. 1942)) which are clearly "Constitutional" issues, thus, this fourth (4th) argument is nothing more than a proof of the third argument brought up by Appellant. Yet, the appellate court did not find properly, nor did it render opinion justifying its actions.

The Appellant alleges that at least one, and possibly all three of the original arguments, thus violating the Constitutional Rights of Appellant, thus This Court should overturn and remand, with written opinion, to set case law standards, and specifically, This Court should declare the law in question Unconstitutional.

ARGUMENT

STANDARD OF REVIEW
Pursuant to Fla.R.App.P.9.210(b)(5), Petitioner states the following standards of review on which appeal is based:
*** Constitution of the State of Florida ARTICLE V, Section 4, vests original authority in the DCA; and,
*** Florida Rule of Appellate Procedure 9.030 Jurisdiction of the Courts (b) Jurisdiction of the District Courts of Appeal (1) *Appeal Jurisdiction.* District courts of appeal shall review, by appeal (C) administrative action if provided by general law, which appears to be /statute/ 120.68, Florida Statute, which allows for review by appeal to the District courts this type of decision.

I

In incorrectly determining timeliness, Lower Tribunal did not uphold:
Florida State law

The incident in question occurred on 07 November 2000. Petitioner was aggrieved by racial discrimination, covered by /s/ 509.092, Fla. Stat., which prohibits establishments for public food and lodging from discriminating based on, among other things, race or national origin. This starts the one-year time-clock outlined in /s/760.11(1) to file with the FCHR. "In lieu of filing the complaint with the commission, a complaint under this section may be filed with ... any unit of government of the state which is a fair-employment practice agency under 29 C.F.R. cc. 1601.70-1601.80. If the date the complaint is filed is clearly stamped on the face of the complaint, that date is the date of filing." [/s/ 760.11(1)] The Police Department must of necessity be an employer of fair-employment practices, and

the date of "Jan 22 2001" stamped on the back of each page of the police report (R:000002) is within this one-year deadline. [/s/761.02(1), Fla. Stat., Religious Freedom, defines "government" as any entity acting under the color of law; and /s/761.05(1), Fla. Stat. makes this definition apply to all state law, whether enacted before or after this Statute.]

That should end the "Argument" section, but Petitioner was careful to contact the

Governor's office on Jan 25 and 26, immediately after receiving a copy of Police Report.

While these offices did not provide receipts for his visit (Petitioner did not know to ask), Petitioner was careful to document a follow-up phone call to the Governor's Office about this matter: Call number "121 01/29 10:53 AM TALLAHASSEE, FL 850-488-4441." (R:000024) This was within the strict time limit mentioned above. Other timely phone calls attempting to contact the proper State Agency were submitted to the Lower Tribunal clerk (R:000052-000055), but a few of the items were not submitted into the record. Attempts have been made to obtain a receipt for Petitioner's visit to Insurance Commissioner's office (R:000053, "ITEMS 20. and 21.) It is hoped that this item will be forthcoming (for a supplement to the record),

and in fact, it was this delay and lack of "smoking-gun" evidence that may have made Petitioner afraid to file Initial Brief of the Appellant, but one can not "make" an agency comply with a "public records" request. In an undocumented phone call to this office (850-413-3100), Justin Glover has told Petitioner that he is convinced that Petitioner contacted his state office in January of 2001 and spoke to "Dolly," who is no longer employed there, to which Petitioner frustratingly replied that it is the DCA, not Mr. Glover, who must be convinced that Petitioner made such timely contact. ~~~***~~~ Defendant amply fell within the "strict" one-year time deadlines and wishes the case to be

heard on its merits, not dismissed on a technicality.

II

In incorrectly determining timeliness, Lower Tribunal did not uphold:

Defendant <u>Agency Rules,</u> authorized by State Law

Respondent, FCHR, states on their official website (R:000014-000016) the following: "**Q.** When may a person file a complaint of discrimination? **A.** If you feel you have been a victim of discrimination, you should file immediately, but no late than 365 days from the date of discrimination, ***<u>or</u>*** the date upon which you

learned that a discriminatory action was taken. Housing complaints must be filed within one year of the alleged discrimination." (R:000015, emphasis mine on the word "or")

Petitioner did not have a housing complaint, but instead one regarding public accommodations. Petitioner found out of a certainty that discrimination (not simple Police abuse) was the culprit when receiving the Official Police report on "Jan 22 2001" (R:000002). Considering the difficulty in getting the Police to admit to some type of wrong-doing, This Honorable Court is respectfully given appeal over this matter.

Petitioner called Respondent, FCHR as shown by ALLTEL phone detail bill of January 14, 2002 (R:000008), which shows phone calls 104-106 placed by Petitioner on December 19, 2001, to 850-488-7082, the official phone number of FCHR, the Respondent. ~~~ FCHR's employee, Alto Thomas, told Petitioner at that time that FCHR handled only housing and employment, but not public accommodations, claims, and directed Petitioner to call the Equal Employment Opportunity Commission (R:000008, calls 108 and 109, December 20, to phone number 813-228-2310). Petitioner made a complaint to Lower Tribunal about its

refusal to address this timely complaint (R:000017), and they replied (R:000025), claiming that Mr. Thomas determined that the complaint was late, that is, not timely. Petitioner does not recall such a statement being made, however, complaint (Dec 19, 2001) was made ***less*** than one year from Jan 22, 2001, when it was officially determined that ethnic discrimination was involved.

Petitioner contacted State Senator John F. Laurent's office by phone on Jan 07, 2002, slightly **less** than one year from "date upon which [Petitioner] learned that a discriminatory action was taken," (R:000015) according to an official memo, in which the date (R:000022) is shown as "January 7, 2002 @ 2:15 pm."

These records were hard to get, and Petitioner continued to seek assistance from various other entities as the record on appeal will show. The Governor will attest that, in his recent "office hours" visit to Lakeland, when Petitioner asked to give him paperwork and seek his office's help, The Governor responded that Petitioner had emailed him about it already, which is quite incredible in memory, however The Governor has not intervened in this matter other than to refer it to The Florida Commission on Human Relations, the Respondent.

Florida Law states that "The Florida Civil Rights Act of 1992...shall be liberally construed to further the general purposes...and the special purposes involved, [/s/ 760.01(3)], which supports this argument that the "more lenient" time limit alleged in the second half of the "Argument" section and supported by Lower Tribunal's own guidelines is also correct, and that this State Statute should not be struck down and declared invalid.

III

In incorrectly determining timeliness, Lower Tribunal did not uphold:

Case Law, as cited in the Reply brief

The Court has generally found that "[w]hen facts are to be considered and determined in

administration of statutes [such as the Civil Rights laws], there must be provisions prescribed for due notice to interested parties as to time and place of hearings with appropriate opportunity to be heard in orderly procedure sufficient to afford due process and equal protection of the laws in any official action taken under the delegated authority..." (Fla. 1942 / Declaration of Rights, $$ 1, 12. McRae v. Robbins, 9 So.2d 284, 151 Fla. 109)

IV

In incorrectly determining timeliness, Lower Tribunal:

Somehow, found a way to violate State and Federal Constitutional

Rights of: A. Due Process

Although time requirements apparently were met, the fact that the FCHR is not as well known as the Equal Opportunity Employment Commission might indicate that Petitioner did not have "due notice" to interested parties. This argument seems possibly valid based on the lack of knowledge by the general public of FCHR as indicated by recent, unscientific polls taken by the Petitioner. ** This assertion is supported by the following: As stated in case above, Due Process and Equal Protection are rights of the litigant:

“No person shall be deprived of life, liberty [including liberty from racial prejudice] or

property without due process of law." (Art. I, section 9, Fla. Const., Accord: Amendment V, Bill of Rights, U.S. Const.)

As ***McRae*** aptly points out, Due Process was denied because "[w]hen facts [of Appellant discrimination] are to be considered and determined in administration of

statutes [such as the Civil Rights laws], there must be provisions prescribed for due notice to interested parties as to time and place of hearings with appropriate opportunity to be heard in orderly procedure sufficient to afford due process and equal protection of the laws in any official action taken under the delegated authority..." However, NO provision for notice as to time and place of hearing was rendered to Appellant after he repeatedly made a nuisance of himself before the various state officials and attorneys. "Attorneys are not state or county officers but they are officers of the Court," and thus should have directed Appellant to the Florida Commission on Human Relations - and given him Due Notice. (Petition of Florida State Bas Association, et al., 40 So.2d 902 at 8. "Attorney and client") The state officials should have given him notice, as should have the private organizations, such as the NAACP and the NAAWP, but they did not. (Only the negligence of the state officials is legally relevant here, as private organizations do not have a legal duty to give Due Process, but these are mentioned here to show a pattern of

behavior, that is, lack of public knowledge about Defendant, FCHR, and its scope of authority.)

IV

In incorrectly determining timeliness, Lower Tribunal:

Somehow, found a way to violate State and Federal Constitutional

Rights of: B. Equal Protection

"No person shall be deprived of any right because of race…" (Art. I, section 2, Fla. Const.) ~~~ "No state [court] shall … enforce any law which shall abridge the privileges … nor shall any state [court] deprive any person of life, liberty [from ethnic discrimination; racial profiling], or property … nor deny to any person within its jurisdiction the equal protection of the laws [on count of ethnic background or race]." (Amendment XIV, section 1, U.S. Const.)

We see here that the current laws, while strong, do not provide complete Equal Protection, most especially due to the lack of Due Process via proper notification of "notice to interested parties as to time and place of hearings with appropriate opportunity

to be heard in orderly procedure sufficient to afford due process and equal protection." (***McRae***)

Thus, we may conclude that the current state laws delegating authority for ethnic

and racial discrimination are not constitutional and should be struck, the order of the appellate court reversed, and the appeal on the merits remanded to either the appellate court or the Florida Commission on Human Relations - or a qualified trial court.

ADDITIONAL ARGUMENTS SUPPORTING THE ABOVE ASSERTIONS

In rebuttal to the arguments raised by the FCHR in regards to the filing with any unit of the government that is a fair employment practice agency under C.F.R. $ 1601.70-1601.80:

The Appellant acknowledges that the Tallahassee Police Department is not a listed member of the agencies shown in the federal code cites, and further admits that this may be a "weak" legal argument, but if it were to be pursued, the avenue would be to note that "[t]he city of Tallahassee is an Equal Opportunity Employer," as cited on its website, http://www.state.fl.us.citytlh/human_resources/employment.html.

This invokes 1601.70(b), which allows the FEP Commission to defer to any state or local agency, even if it has not applied for FEP designation, if it meets any one of the three requirements, and the Tallahassee Police Department appears to meet

the first requirement in 1601.70(a), namely in that it is authorized to grant relief from the practice of discrimination, presumably by hiring or promotion of a qualified applicant - or the firing or discipline of an offending supervisor. This Police Department is a "state or local" agency, as well, thus giving it possibly legal standing here, and this basis, if upheld on appeal, would possibly set case law precedent about how a person so aggrieved might file a grievance and be accepted.

In rebuttal to the arguments raised by the FCHR in regards to the standards set by St. Petersburg Motor Club v. Cook (567 So.2d 488 Fla. 2nd DCA, 1990). Helen Cook, the Appellee, was aware of the potential discrimination all along, and this court found that "[w]e must focus on the time of the discriminatory act, not upon the time at which the consequences became most painful, and accordingly, the limitations period commenced to run no later than the date on which the board of directors clearly established its official position as it related to the Appellee and notified her." (Cook, citing Delaware State College v. Ricks 449 U.S. 250, 101 S.Ct. 498, 66 L.Ed.2d 431). (1980)

The Appellee, FCHR, claims Appellant Watts admitted to knowledge of the

discrimination in an AOL instant message to "Republican Marty's" secretary. This, however, is not true: A closer reading of the e-note, indicates that Appellant Watts relayed the police officer's claims that Marty was offended by his Indian attire, and asked "[a]re these claims true?" (Record: 000007)

Appellee, FCHR, takes issue with the fact that Appellant did not have the EEOC (Equal Employment Opportunity Commission) or the FCHR sign his complaint, but this expectation is unreasonable, in that both agencies refused, the EEOC indicating that is only handled "employment" complaints, and the FCHR's refusal based on the (false) claim that FCHR only handled "housing and employment" issues, not those relating to public accommodations.

FCHR claimed in its previous brief that its employee did not make these claims and did not refer the matter to the EEOC. There are, however, three (3) witnesses against that claim:

(1) The FCHR, itself, took three phone calls on December 09, 2001, as shown by the record (R:000008), and this hints that the complainant, Gordon Watts, received some sort of "no" answer;

(2) The Appellant gives his word regarding this matter as a witness, albeit biased; and, lastly,

(3) The phone record shows only one phone call between the three calls to FCHR and the EEOC, namely an incoming call at around 11:26 pm on the 19th, indicating a "cause and effect" relationship between the calls to the FCHR and the eventual call to the EEOC. Why did Appellant Watts call the EEOC? The record supports his recollection and the evasive actions of the FCHR, who never made this rebuttal in phone calls made to its agency - and not until the filing of a response brief. (Appellant apparently called EEOC only because of request by FCHR.)

It is unreasonable for the Appellee FCHR to expect Appellant to coerce or "make" an agency provide a date stamp. That would be like a cop kicking a taillight out, and then citing for that in a ticket. One cannot make the cop do anything forcibly, namely kick or not kick out the tail light.

Appellee raises Greene v. Seminole Electric Cooperative, Inc. (701 So.2d 646 Fla. 5th DCA, 1997) as supposedly being in "accord" with the prior citing of case law.

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In rebuttal to this argument: Green only permits the circumstances of Florida Statute 95.051(2) to toll (suspend) the limitation period, but /s/ 95.051(2) makes certain exceptions, namely "those specified in this section, s. 95.091," and others. So, what does Section 95 include? Florida Statute 95.031, Computation of Time, is in this section, and states that "[except as provided in subsection (2) and in s.95.051...time...runs from the time the cause of the action accrues. (1) A cause of action accrues when the LAST element constituting the cause of action occurs," (Emphasis mine) and, "...is the FIRST WRITTEN DEMAND for payment..." (Emphasis mine).

This indicates that the *written* admission of discrimination is what starts the time clock, but other statues cited below will more explicitly support this definition.

Indeed, the courts generally found in Merkle v. Robbinson, 737 So.2d 540 (Fla. 1999) that statutes of limitations are to be considered sustentative law, which is subject to the "significant relationship" test, when a choice of law exists. (Accord Fulton County Administrator v. Sullivan, 753 So.2d 549, 553 n.3 (Fla. 1999) and Fulton County Adm. v.

Sullivan 24 Fla L. Weekly S557 (Fla. 1999)).

The result of this is that, even though, assuming arguendo Watts' action to be time-barred under Florida Law, the party will now be able to maintain an action in Florida. Florida Law, itself, supports this argument, ironically, below:

Appellee, FCHR, acknowledges the "lenient" argument made in initial brief - but with glaring omission, does not rebut this argument! (Only rebutting the "strict" argument.) This is probably because this argument was the strongest one, in which Appellee's own rules and regulations made a distinction between when an action happened and when a person might find out the discriminatory nature (as opposed to just plain meanness as a cause for a mistreatment).

This court must overturn this unjust decision, in that it is contrary to Florida Statute 760.01(3), which mandates that the administration of The Florida Civil Rights section to be liberally construed, meaning, in plain English, that, where there is a conflict between rules, the more "liberal" standard shall start the time clock.

That standard was stated on page 12 of the Appellant's initial brief, quoting R:000015 of

the record, which is a copy of the FCHR's own rules, allowing time to start when petitioner "learned that a discriminatory action was taken." Unless

FCHR attorneys can read minds, it is unreasonable to estimate when petitioner Watts "learned" anything.

That is why the response brief chose not to respond to this argument: it was right. As well, Appellee FCHR did not respond to Appellant citation of McRae v. Robbins, which mandates "provisions for due notice to interested parties [including Watts] as to time and place with appropriate opportunity to be heard..." (Pages 13 and 14 of Appellant's Initial Brief). (McRae hints that "ignorance of the law" just might be an excuse, where it is occasioned solely by the negligence of the referee, with no contributory negligence on the part of the person seeking relief, and where evidence exists that complainant has made every valid effort to move the case along the proper channels.)

The FCHR did not respond on that point as well because they knew that this basis alone was sufficient to overturn: Indeed, a recent poll by the Appellant finds that practically NO persons of the general public even know of the existence of the Florida Commission on Human Relations, or what it does. Thus, FCHR knows that its purposeful and willful lack of TV and paper advertisement was to blame for Appellant searching many months daily

praying and seeking diligently and still

unable to find a State employee at the Capitol who knew to refer Appellant Gordon Watts to this "hidden" agency.

(If this court doubts the "hidden ness" of the FCHR, Appellant respectfully urges court to inquire of the general public "which agency would one turn to" for relief regarding public accommodations problems.)

VERY IMPORTANT SUPPLEMENTS

Citing letters from the ACLU (Supplement: 003), a private attorney (S: 002), the Florida Office of the Attorney General (S:001) - supplements to the record on appeal, the first two of which the lower tribunal clerk omitted in initial preparation of record - and the office of former State Senator, John F. Laurent (R: 000022), APPELLANT, respectfully brings to the attention of this court that none of the four (4) referrals mentions the Florida Commission on Human Relations, supporting the Appellant claims of the "hidden" nature of the FCHR, which goes against case law in McRae cited above: How could the Appellant have "due notice" if practically NO ONE of the general - or even elite Tallahassee - public was aware of the

existence of the FCHR? (Appellant could not, thus this court must overturn.)

CONCLUSION

Commission rules - as supported by State Law - clearly support Appellant and petitioner Watts in his claims of timeliness.

Case law supports an argument to overturn because, while Appellant in fact did, technically, meet the guidelines of the strict and narrow State Law cited in this brief, nonetheless, State Law, as it is written, does not give proper opportunity for Due Notice, and thus Equal Protection, as both *McRae* and the Constitution require. Thus, This Honorable Court should strike as unconstitutional the state laws governing the FCHR.

It is suggested, as a remedy, that this court, for the reasons above, reverse and remand, in part regarding timeliness in the instant case. Appellant furthermore prays to This Honorable Court to take into consideration steps to prevent *future* complainants from being "in the dark" about FCHR's existence and mission, specifically that this court would order an advertisement campaign (of radio, TV, and newspaper), to afford future complainants "due notice." In support, whereof, I have affixed my signature as per below:

CERTIFICATE OF FONT SIZE, FONT TYPE, AND MARGINS

Pursuant to Fla.R.App.P.9.210(a), Plaintiff hereby certifies that standards were met by using the following in typeset: Font Size = 14 ; Font Type = "Times New Roman" ; Margins = 1 inch in top, bottom, left, and right.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to the following parties this _06th_ day of _January_, 2004:

(Sent in duplicate and/or certified, to meet requirements of Fla.R.App.P. 9.420(d)(Add'l Time After Service by Mail)

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* Hon. James Birkhold, Clerk, Second District Court of Appeal, State of Florida
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Respectfully submitted,

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