

No. _____

IN THE SUPREME COURT OF THE
UNITED STATES

Appeals Court No. 2019-P-1133

CAMILLE T. MATA,
Petitioner,

v.

MASSACHUSETTS COMMISSION AGAINST
DISCRIMINATION,
Respondent.

On Petition for a Writ of Certiorari to the
Appeals Court of the Commonwealth of Massachusetts

APPENDIX

Camille Tuason Mata,
184 Plumtree Road
Sunderland, MA. 01375
E-mail: camille.mata69@gmail.com
Mobile: (617) 515-1642

PRO SE

DATED: December 31, 2020

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

19-P-1133

CAMILLE T. MATA

vs.

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

Camille T. Mata, the plaintiff, filed a complaint in September 2016 with the Massachusetts Commission Against Discrimination (MCAD) after she was denied admission to a regional planning doctoral program at the University of Massachusetts at Amherst (school).¹ After MCAD found a lack of probable cause to support her complaint, she challenged that disposition in the Superior Court. She now appeals from the judgment dismissing her case for a lack of subject matter jurisdiction under Mass. R. Civ. P. 12 (b) (1), 365 Mass. 754 (1974), and a failure to state a claim upon which relief can be granted under Mass. R. Civ. P. 12 (b) (6), 365 Mass. 754 (1974). While Mata presents a host of claims on appeal related to the

¹ In her complaint, Mata alleges that the school's rejection was based on her race and gender.

so-called "legal errors" committed by the judge, the appeal presents a single legal issue: whether Mata had the right to seek judicial review in the Superior Court. We conclude that she has no such right and affirm.

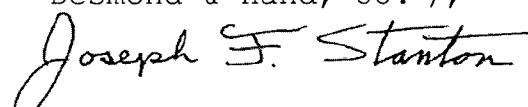
Background. Following Mata's submission of her complaint to the MCAD, an MCAD commissioner investigated the matter and dismissed it for a lack of probable cause. Mata, as permitted, requested a preliminary hearing in accordance with G. L. c. 151B, § 5. Following that hearing, MCAD affirmed the finding of the commissioner. MCAD's letter to Mata notifying her of that decision stated that the decision "represents a final action by the Commission and no further action regarding this complaint will be considered at [MCAD]. This final action of the Commission is not subject to Judicial Review [under] G. L. c. 30A." Despite that notice, Mata nevertheless filed the underlying complaint, seeking judicial review of MCAD's disposition. MCAD moved to dismiss and the judge allowed the motion, concluding that a determination of no probable cause is not a final ruling of the MCAD and thus is not subject to appeal under G. L. c. 30A.

Discussion. We review Mata's claim de novo. See 311 W. Broadway LLC v. Zoning Bd. of Appeal of Boston, 90 Mass. App. Ct. 68, 73 (2016). The sole legal question presented in this appeal has been answered and is controlled by Grandoit v.

Massachusetts Comm'n Against Discrimination, 95 Mass. App. Ct. 603 (2019).² In Grandoit, the plaintiff's five MCAD complaints were dismissed for a lack of probable cause after a preliminary hearing. Id. at 604. As here, the plaintiff attempted to challenge that disposition in the Superior Court. Id. The matter was appealed to this court and we concluded that the Superior Court lacks jurisdiction under the Administrative Procedure Act, see G. L. c. 30A, and the certiorari statute, see G. L. c. 249, § 4, to review MCAD's determinations of no probable cause. Grandoit, supra. We determined that similarly situated plaintiffs have an alternate remedy available under G. L. c. 151B, § 9, and as a matter of law cannot prove they "suffered a substantial injury or injustice from the commission's decision not to institute formal proceedings." Grandoit, supra at 608. MCAD is not required to prosecute "each one of the many complaints that it receives." Id. We reach the same result here.

Judgment affirmed.

By the Court (Sullivan,
Desmond & Hand, JJ.³),


Joseph F. Stanton
Clerk

Entered: May 20, 2020.

² Mata does not address Grandoit in her appeal and we see no reason to alter its holding.

³ The panelists are listed in order of seniority.

CLERK'S NOTICE		DOCKET NUMBER 1878CV00079	Trial Court of Massachusetts The Superior Court	
CASE NAME: Camille T Mata vs. Massachusetts Commission Against Discrimination		Susan K. Emond, Clerk of Courts		
TO: Camille T Mata 184 Plumtree Road Sunderland, MA 01375		COURT NAME & ADDRESS Franklin County Superior Court 43 Hope Street Greenfield, MA 01301		
<p>You are hereby notified that on 01/25/2019 the following entry was made on the above referenced docket:</p> <p>Endorsement on Motion to dismiss all counts (#12.0): See Order ALLOWED</p>				
DATE ISSUED 01/28/2019	ASSOCIATE JUSTICE/ ASSISTANT CLERK Hon. Mark D Mason			SESSION PHONE#

Camille T. Mata v. Massachusetts Commission Against Discrimination, 1828CV0079

Before me is the Defendant, the Massachusetts Commission Against Discrimination's (the "MCAD"), motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted. For the reasons set forth below, the MCAD's motion is ALLOWED:

On September 9, 2016, Plaintiff, Camille T. Mata ("Ms. Mata"), filed a gender/race discrimination complaint against the University of Massachusetts, Amherst with the MCAD citing violations of G.L. c. 151C. On December 6, 2017, a MCAD investigator recommended a finding of lack of probable cause against the University of Massachusetts. Ms. Mata filed an appeal of the investigator's finding, and, on September 28, 2018, the Investigating Commissioner affirmed the finding of lack of probable cause. On November 6, 2018, Ms. Mata initiated the present action seeking judicial review of the lack of probable cause disposition. The MCAD has filed its motion seeking dismissal for lack of subject matter jurisdiction as well as failure to state a claim upon which relief may be granted.

"Under commission regulations, a hearing officer or hearing commissioner enters a case only if, and after, the investigating commissioner finds probable cause to credit the allegations in the complaint and certifies the case to a public hearing. See 804 Code Mass. Regs. § 1.15(7)(b) (2008); 804 Code Mass. Regs. § 1.20(3) (2004)." *Connor v. Massachusetts Commn. Against Discrimination*, 85 Mass.App.Ct. 1107 (unpublished) citing *Temple Emanuel of Newton v. Massachusetts Commn. Against Discrimination*, 463 Mass. 472, 474-475 n. 3 (2012). Preliminary hearings on findings of lack of probable cause, such as at issue herein are "not subject to the requirements of G.L. c. 30A." 804 Code Mass. Regs. 1.15(7)(d).

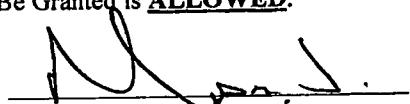
The Appeals Court held in *Zannerini v. Massachusetts Commn. Against Discrimination*, 74 Mass.App.Ct. 1119 (unpublished), "An investigating commissioner's decision to sustain a lack of probable cause finding at the preliminary hearing does not constitute a final decision rendered by the full commission in an adjudicatory proceeding. See 804 Code Mass. Regs. § 1.15(7)(d). Only the investigating commissioner hears the complainant's evidence presented at the preliminary hearing and the investigating commissioner's decision cannot be appealed to the full commission. See 804 Code Mass. Regs. § 1.15(7)(d). Since an investigating commissioner's decision to affirm a lack of probable cause finding after a preliminary hearing does not meet the requirements of c. 30A, § 14 (because it is not a final decision issued by the full commission), no judicial review is available pursuant to § 6 of c. 151B." *Id.*

As in *Connor* and *Zannerini*, since the investigating commissioner found no probable cause, the matter could not proceed to the full commission, and, subsequently, to judicial review. Judicial review is available only to a person aggrieved by a final order of the full MCAD. See G.L. c. 151B, § 6; 804 Code Mass. Regs. § 1.24 (1999). Regardless, a lack of probable cause finding does not bar a petitioner from initiating an independent complaint in Superior Court pursuant to c. 151B, § 9. See G.L. c. 151B, § 9.

The case law cited above applies with equal force to actions brought pursuant to G.L. c. 151C such as the present action. See 804 Code Mass. Regs. 1.01 (the regulations of the MCAD "shall apply to [G.L.] c. 151C where not inconsistent with the provision of [G.L.] 151C").

For the reasons set forth above, the MCAD's Motion to Dismiss for Lack of Jurisdiction Over the Subject Matter and Failure to State a Claim upon Which Relief Can Be Granted is ALLOWED.

January 25, 2019


Hon. Mark D. Mason
Justice of the Superior Court

A TRUE COPY ATTEST



Susan K. Friend
Clerk of Courts



Camille Tuason Mata <camille.mata69@gmail.com>

FAR-27548 - Notice: FAR denied

1 message

SJCCCommClerk@sjc.state.ma.us <SJCCCommClerk@sjc.state.ma.us>

Mon, Jul 27, 2020 at 4:00 PM

Reply-To: SJCCCommClerk@sjc.state.ma.us

To: camille.mata69@gmail.com

Supreme Judicial Court for the Commonwealth of Massachusetts

RE: Docket No. FAR-27548

CAMILLE T. MATA

vs.

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Franklin Superior Court No. 1878CV00079

A.C. No. 2019-P-1133

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on July 27, 2020, the application for further appellate review was denied.

Francis V. Kenneally, Clerk

Dated: July 27, 2020

To: Camille T. Mata
Kristen Dannay, Esquire
Ethan Crawford, Esquire



Camille Tuason Mata <camille.mata69@gmail.com>

FAR-27548 - Notice of Docket Entry

1 message

SJCCommClerk@sjc.state.ma.us <SJCCommClerk@sjc.state.ma.us>

Fri, Oct 2, 2020 at 4:00 PM

Reply-To: SJCCommClerk@sjc.state.ma.us

To: camille.mata69@gmail.com

Supreme Judicial Court for the Commonwealth of Massachusetts

RE: No. FAR-27548

CAMILLE T. MATA

vs.

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

NOTICE OF DOCKET ENTRY

Please take note that on October 2, 2020, the following entry was made on the docket of the above-referenced case:

DENIAL of petition to reconsider denial of FAR application.

Francis V. Kenneally, Clerk

Dated: October 2, 2020

To:

Camille T. Mata

Kristen Dannay, Esquire

Ethan Crawford, Esquire

Camille Tuason Mata
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Commission Against Discrimination

OCT 24 2018
Springfield

MCAD Springfield Office
Attn: Attorney Kristen Dannay
436 Dwight Street, Rm. 220
Springfield, MA 01103
Phone: (413) 739-2145
Fax: (413) 784-1056

Certificate of Service

Pursuant to Mass. R. Civ. P 5(a), I hereby certify that a true copy of the preceding document was served by certified mail upon the Clerk of Court of the Franklin County Superior Court and upon Attorney Kristen Dannay, Counsel for the Massachusetts Commission Against Discrimination, on Sunday, October 21, 2018.

Camille Tuason Mata
Sincerely yours,
Camille Tuason Mata, Pro Se

**Additional material
from this filing is
available in the
Clerk's Office.**