This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 8/11/05

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
DERECK THOMPSON,	)	
	)	
Complainant,	)	
	)	**Charge No.: 2000CF2004**
and	)	**EEOC No.: 21BA01422**
	)	**ALS No.: 11562**
VALLEY RIVET COMPANY, INC.,	)	
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

On June 18, 2001, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Dereck Thompson. That complaint alleged that Respondent, Valley Rivet Company, Inc., discriminated against Complainant on the basis of his race by subjecting him to racial harassment.

This matter now comes on to be heard on my own motion, *sua sponte*, to dismiss the case. Respondent's counsel withdrew more than sixty days ago and Complainant did not appeared at the last status hearing.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. This matter was stayed from September 20, 2001 until April 5, 2005 because Respondent had filed for bankruptcy protection.

2. During the period of the stay, Respondent filed periodic reports to keep the Human Rights Commission apprised of the status of the pending bankruptcy. A new status dates was set in response to each of Respondent's written reports. The reports were routinely served upon Complainant at the address listed in the Commission's records.

3. Complainant has not appeared for a status conference since March 2, 2002.

4. Complainant is not represented in this matter.

5. On April 5, 2005, the stay in this matter was lifted. An order was entered which set a new status date of June 7, 2005. The order specifically stated that both parties must attend the June 7 status or risk default or dismissal with prejudice.

6. Respondent's counsel withdrew at the April 5, 2005 status date. No attorney has filed an appearance on Respondent's behalf since that time.

7. Although he had withdrawn his appearance, Respondent's counsel served a copy of the April 5, 2005 order on Complainant at the address in the Commission's record file.

8. Complainant did not appear at the June 7, 2005 status hearing. No motion has been filed to explain his absence.

9. Complainant has not appeared or filed any documents in this matter since at least September 20, 2001.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute this matter has unreasonably delayed these proceedings.

2. This matter should be dismissed with prejudice because of Complainant's inaction.

DISCUSSION

This case was stayed for several years because of Respondent's federal bankruptcy court proceedings. Those proceedings have ended and the stay in this case has been lifted. However, despite the lifting of the stay, Complainant has not appeared to prosecute his claim.

A number of status hearings were scheduled during the stay. Those statuses, though, were routinely continued when Respondent filed written status reports. As a result of Respondent's reports, no personal appearances were required for the scheduled status hearings. Complainant was served with copies of Respondent's reports and with copies of the

orders setting new status dates. Complainant never filed a written response to any of Respondent's reports.

On April 5, 2005, the stay in this matter was lifted. An order was entered which set a new status date of June 7, 2005. The order specifically stated that both parties must attend the June 7 status or risk default or dismissal with prejudice. Despite that order, Complainant failed to appear at the June 7 status hearing. No motion was filed to explain his absence.

Complainant has not appeared or filed any documents in this matter since at least September 20, 2001. While the stay was in place, his inaction was understandable. Now that the stay has been lifted, his inaction should be fatal to his claim.

Because of his failure to prosecute this case, it appears that Complainant has abandoned his claim in this forum. As a result, it is appropriate to dismiss this claim with prejudice. *See* ***Leonard and Solid Matter, Inc.***, ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned his claim. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY:_____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: June 29, 2005