



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)
	)
<b>NATHANIEL STEWART,</b>	)
<b>Complainant,</b>	) <b>Charge No: 2003CF0011</b>
	) <b>EEOC: 21BA222740</b>
	) <b>ALS No:04-227</b>
	)
<b>and</b>	)
	)
<b>SBC MIDWEST,</b>	)
<b>Respondent.</b>	)

**RECOMMENDED ORDER AND DECISION**

This matter is before me on my own motion, *sua sponte*, to dismiss this matter for Complainant's failure to comply with orders of the Administrative Law Judge.

**FINDINGS OF FACT**

The following findings of fact were made from the record:

1. Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (Department) on July 2, 2002.
2. The Department filed a Complaint, on behalf of the Complainant, with the Illinois Human Rights Commission (Commission) on June 9, 2004, alleging that Respondent discriminated against him on the basis of race in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*
3. Respondent filed a motion for extension of time to answer or otherwise plead to the Complaint on July 9, 2004 and noticed it to be heard on July 13, 2004 at 11:00 a.m. On July 13, 2004 Respondent appeared on its motion; Complainant did not appear. An Order was entered granting Respondent until August 18, 2004 to answer or otherwise plead to the Complaint. A status was set for August 25, 2004.

4. Respondent filed its answer and affirmative defenses to the Complaint on August 18, 2004. In its answer, Respondent denies that "SBC Midwest" was Complainant's employer and affirmatively states that the appropriate employer was "SBC Global Services, Inc." Neither Party filed pleadings to correct the purported misnomer; thus, the caption has remained undisturbed.
5. On August 25, 2004, Respondent appeared through counsel. Complainant did not appear. An Order was entered setting the matter for a status hearing on September 29, 2004.
6. On September 29, 2004, Respondent appeared; Complainant did not appear. An Order was entered ordering Complainant to file an appearance and setting a further status for November 24, 2004. The Order warned Complainant that failure to appear at the next status hearing might result in dismissal of the case.
7. Complainant's counsel filed an appearance on October 1, 2004. On November 24, 2004, both Parties appeared through respective counsel. A status hearing was set for January 11, 2005. Complainant's counsel advised that he intended to request a voluntary stay of these proceedings at the next status hearing.
8. On January 7, 2005, an order was entered rescheduling the January 11, 2005 status hearing for January 26, 2005.
9. On January 26, 2005 both Parties appeared through respective counsel. Complainant's attorney advised that this matter would be subject to a voluntary stay of proceedings due to his intent to pursue an analogous claim in federal court. A status was set for July 12, 2005.
10. On July 12, 2005, both Parties appeared through respective counsel. On advice from the Parties, an Order was entered ordering Complainant to file proof, no later than July 29, 2005, that an analogous action had been filed in federal court. A status was set for January 10, 2006.

11. On August 2, 2005, Complainant filed proof that he had filed an analogous complaint, No. 05C 4087, with the federal district court on July 14, 2005. The federal complaint named "SBC Global Services, Inc." as the defendant.
12. On January 10, 2006, neither Party appeared for the scheduled status. An Order dated January 11, 2006 was entered ordering the Parties to appear on March 14, 2006 to advise this tribunal of the status of this matter. The Order warned that failure to appear might result in dismissal of this matter. On March 14, 2006, neither Party appeared.

### **DETERMINATION**

This case warrants dismissal due to Complainant's failure to appear for two consecutively scheduled status hearings to advise this tribunal of the status of this matter in light of his pending analogous federal claim.

### **CONCLUSION**

Complainant's conduct has resulted in unreasonable delay of this matter.

### **DISCUSSION**

775 ILCS 5/8A-102(I)(6) of the Act authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute his case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge. Similarly, Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings.

The record indicates that Complainant has ignored two orders of the administrative law judge ordering him to appear for status hearings on January 10, 2006

and March 14, 2006. The January 11, 2006 Order warned Complainant that failure to appear for the March 14, 2006 status hearing might result in dismissal of this matter.

**RECOMMENDATION**

Accordingly, I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

**HUMAN RIGHTS COMMISSION**

**BY: \_\_\_\_\_**  
**SABRINA M. PATCH**  
**Administrative Law Judge**  
**Administrative Law Section**

**ENTERED: March 22, 2006**