



City of Chicago  
**COMMISSION ON HUMAN RELATIONS**  
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654  
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

**IN THE MATTER OF:**

Victor Anguiano  
**Complainant,**  
v.  
Muhammad Abdi  
**Respondent.**

**Case No.:** 07-P-030

**Date Mailed:** October 2, 2009

**TO:**

Victor Anguiano  
5416 S. New England Ave.  
Chicago, IL 60638

Muhammad Abdi  
P.O. Box 6087873  
Chicago, IL 60660

**FINAL ORDER**

YOU ARE HEREBY NOTIFIED that, on September 16, 2009, the Chicago Commission on Human Relations issued a ruling in favor of Respondent in the above-captioned matter. The findings of fact and specific terms of the ruling are enclosed. Based on the ruling, this case is hereby DISMISSED.

Pursuant to Commission Regulations 100(15) and 250.150, Complainant may seek a review of this Order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law.

CHICAGO COMMISSION ON HUMAN RELATIONS  
Dana V. Starks, Chair and Commissioner



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## FINAL RULING ON LIABILITY AND RELIEF

### I. PROCEDURAL HISTORY

On April 5, 2007, Complainant Victor Anguiano filed a Complaint against Respondent Muhammed Abdi with the Chicago Commission on Human Relations, alleging race, age, and disability discrimination involving a public accommodation. In his Complaint, Mr. Anguiano asserts that Mr. Abdi, who is a taxi cab driver, made racist and ageist comments to him during a cab ride in violation of Chapter 2-160 of the Chicago Human Rights Ordinance ("CHRO"). On May 24, 2007, Mr. Abdi filed a Verified Response to the Complaint and denied the allegations of discrimination.

On July 10, 2008, the Commission entered an Order Finding Substantial Evidence of a violation of the CHRO regarding Complainant's race and age discrimination claims, but determined that there was no substantial evidence of disability discrimination and dismissed that claim. The parties appeared *pro se* at a hearing on May 5, 2009.

### II. FINDINGS OF FACT

1. On December 28, 2006, at about 1:00 a.m., Mr. Anguiano arrived at Midway Airport from a trip to Florida. (Tr. 5). He is Mexican and was in his early fifties at the time. He stood in the taxi service line and waited for a cab. When Mr. Abdi pulled up, Mr. Anguiano put his luggage in the trunk, entered the cab, and told Mr. Abdi his address. (Tr. 5-6). Mr. Anguiano's luggage included multiple medications and a breathing machine. (Tr. 7).

2. Mr. Anguiano lived approximately seven to ten minutes away from Midway. He testified that upon hearing the address, Mr. Abdi "made a face and he was like frustrated I guess that the travel time was not far enough for him to make money." (Tr. 6).<sup>1</sup> After hearing the address, Mr.

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<sup>1</sup> Mr. Anguiano also testified that upon giving the address, Mr. Abdi swore at him. (Tr. 6). However, the hearing officer found that this testimony lacked credibility. As explained below there was a "short trip ticket" process that Mr. Abdi could take advantage of after realizing that Mr. Anguiano's address was close by. Thus, even if Mr. Abdi was "frustrated" at having to go through that process after waiting for some time to get a fare, the hearing officer found it doubtful that this slight annoyance would have led him to curse at a paying customer.

Abdi got out of the cab, went somewhere beyond Mr. Anguiano's view and was gone for nearly ten minutes. (Tr. 6, 12-13). Mr. Anguiano believed that he had gone to complain to someone about the short trip, but that was not the case.

3. Midway has its own cab service procedures. Cab drivers park and wait in a "staging area" and are then summoned to another area to pick up passengers and take them to their destinations. "Starters" or workers are in each area to assist the cab drivers and the passengers. (Tr. 26).

4. Cab drivers may wait in the staging area for a long time before ever being assigned a passenger. (Tr. 29). If they get a passenger whose destination is close by, the cab driver can ask the starter for a "short trip ticket." (Tr. 28-30). With that ticket and upon his/her return from the short trip, the cabdriver can proceed directly to the pick-up area instead of having to wait in the staging area again. (Tr. 29).

5. For a cab driver to take advantage of this accommodation, the "short trip" must be within certain geographical boundaries around the airport and the cab driver must return to Midway from the short trip within forty (40) minutes. (Tr. 29 and See Resp. Exhibit 1). If the cab driver fails to return within 40 minutes, the "short trip ticket" accommodation is lost and he or she must go to the end of the line in the staging area. (Tr. 31).

6. Mr. Anguiano's address fell within the "short trip" boundaries. Therefore, contrary to Mr. Anguiano's belief, when Mr. Abdi heard the address, he did not leave his cab to complain about the short trip. He left to get a "short trip ticket" from the starter so that he would not have to wait again in the staging area upon his return to Midway. (Tr. 29).

7. Unfortunately, Mr. Anguiano did not know about the "short trip ticket" process and Mr. Abdi did not enlighten him before getting out of the cab. Therefore, when Mr. Abdi returned to his cab, Mr. Anguiano had become angry. (Tr. 31-32). He had observed what he believed to be a frown on Mr. Abdi's face after hearing his address. He thought that Mr. Abdi was frustrated with him and had gone to complain about the short trip. He had to wait in the cab for nearly ten minutes before Mr. Abdi returned. This simple misunderstanding and delay led to an argument during the cab ride.

8. Mr. Anguiano began to rant at Mr. Abdi and said "you guys, every time I come here, when I tell you my address, you get out of the car and go to these people to complain about my trip." (Tr. 32). At that point, Mr. Abdi tried to explain the "short trip ticket" process but to no avail. (*Id.*). Mr. Anguiano then began "throwing all kinds of insults," which culminated into racial or ethnic slurs, such as "you go back to [the] Middle East" or back to Africa. (Tr. 33).<sup>2</sup> Then Mr. Abdi got angry and yelled that at least "he had a job where he was from" and he would always have a job if he went back to his country. (Tr. 10). Some time during the argument, Mr. Anguiano had told Mr. Abdi that he did not work because he was on disability. Seizing on these statements, Mr. Abdi then returned the insults by calling Mr. Anguiano old, and taunted that he was too old not to have a job to support himself. (Tr. 10-11).

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<sup>2</sup> Mr. Abdi appears to be of African descent and has an accent.

9. In his Complaint, Mr. Anguiano alleged that during the argument, Mr. Abdi also said, "Fuck you, you stupid illegal Mexican." (See Compl. p. 2). Yet, when asked twice by the hearing officer to specifically describe what Mr. Abdi said during the cab ride, Mr. Anguiano did not testify to this alleged statement and could not provide any specifics regarding the race-related statements purportedly made toward him. (Tr. 10). Instead, Mr. Anguiano testified only that Mr. Abdi "said something about being Mexican" and started "talking about [Mexico] and everything, not saying nothing nice about it." (Tr. 6, 10).

10. Mr. Anguiano's appearance and speech do not automatically establish or suggest that he is Mexican. Prior to the argument, Mr. Anguiano did not have a friendly conversation with Mr. Abdi in which he told Mr. Abdi about his background or race. Mr. Abdi never got a chance to ask where Mr. Anguiano was from before the argument started. Accordingly, Mr. Abdi testified that he did not discriminate against Mr. Anguiano based on his race. (Tr. 68).

11. Back to the cab ride -- The argument escalated to the point where Mr. Abdi closed and locked the safety shield between himself and Mr. Anguiano. When the shield is locked, the passenger cannot have any physical contact with the driver. However, there is a flip-type opening within the shield for the passenger to pay the fare. (Tr. 34).

12. Because the argument had intensified, Mr. Abdi told Mr. Anguiano to get out of the cab. (Tr. 6). Mr. Anguiano refused and told Mr. Abdi to drop him off on Archer and New England Avenues, which was a block from the original address he had given Mr. Abdi. (Tr. 6, 7). Mr. Anguiano testified that he asked to be dropped off at that intersection because he did not want Mr. Abdi to see where he lived. (Tr. 16). Mr. Abdi complied with this request and stopped the cab, but then an argument ensued over payment of the \$7.80 fare. (Tr. 34-35). Mr. Anguiano refused to pay until he was able to get his luggage out of the trunk. Mr. Abdi refused to give Mr. Anguiano his luggage until he was paid, and told Mr. Anguiano that he would call the police if he did not pay. (Tr. 7, 35). Ultimately, without paying the fare, Mr. Anguiano stepped out of the cab and Mr. Abdi drove off with his luggage. (Tr. 7). He parked around the corner and called the police. (Tr. 36).

13. Mr. Anguiano saw his nephew coming out of his house, told him what had happened and the two of them got into a car and drove off to look for Mr. Abdi. (Tr. 8). When they saw the cab, the nephew approached Mr. Abdi and told him to return the luggage. (Tr. 9). Mr. Abdi again refused because he had not been paid. (Tr. 36). He told the nephew that he had called the police and was waiting for them. According to Mr. Abdi, the nephew "moved very violently" and "start[ed] to make violent gesture[s]." (Tr. 36). Mr. Abdi was worried about his safety and therefore drove off to nearby Newland Street to wait for the police. (Tr. 36).

14. When the police arrived, Mr. Abdi explained his version of events. (Tr. 38). The officers also spoke with Mr. Anguiano. They instructed Mr. Abdi to open the trunk and give Mr. Anguiano his luggage. They also told Mr. Anguiano to pay the fare. (Tr. 38-39). Before Mr. Abdi received the money, the police were called away to investigate an unrelated burglary. (Tr. 21). When the officers left, Mr. Anguiano and his nephew retrieved the luggage, got into their car and drove off without paying the fare. (Tr. 40). Mr. Anguiano testified that he takes sleeping pills as a result of the incident with Mr. Abdi and will not get in a cab. (Tr. 9).

15. On January 15, 2007, Mr. Anguiano filed a complaint against Mr. Abdi with the Department of Consumer Services (“DCS”). (See Resp. ex. 2). DCS is a local government agency charged with “enforc[ing] laws governed by the City of Chicago Municipal Code to protect consumers and businesses from unfair and deceptive practices.” (See Resp. Ex. 2 at p. 2). Among other things, the agency regulates and provides licensing for taxi cab drivers. DCS also provides training to the drivers regarding policies and procedures for customer service, including how to deal with irate passengers (Tr. 45-46). DCS does not enforce anti-discrimination or civil rights laws.

16. In his DCS complaint, Mr. Anguiano described Mr. Abdi as a “Blackman w/ heavy accent, short, dirty looking.” (*Id.*). He related the events that took place during and after the cab ride and alleged that Mr. Abdi shouted racial obscenities and called him “a fat old man, stupid and not smart enough to get a job.” (*Id.*). Mr. Anguiano claimed in the DCS complaint that he paid \$10.50 for his fare.<sup>3</sup>

17. On April 5, 2007, Mr. Anguiano also filed a complaint with the Commission regarding the December 28, 2006 cab ride and alleged that Mr. Abdi made racist comments toward him and called him “a fat old man, stupid and not smart enough to get a job.” (See Compl.).

18. The City of Chicago Department of Administrative Hearings (the “Department”) held a hearing on the DCS complaint. (See Compl. Ex. 2). By an order dated July 13, 2007, Mr. Abdi was fined \$325 for discharging a passenger and discourtesy. (See Compl. Ex. 2). The Department based these fines on its determination that Mr. Abdi should have given Mr. Anguiano his luggage, even if he had not paid the fare, and should not have “closed the shield and told Mr. Anguiano to shut up.” (Tr. 55-57). However, nine other alleged violations of the Chicago Municipal Code, including two charges of abusive behavior were dismissed. (*Id.*). The order does not set forth any findings of fact or conclusions of law regarding the alleged race- and age-based comments purportedly made by Mr. Abdi.<sup>4</sup>

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<sup>3</sup> In his DCS and CCHR Complaints, as well as in his testimony at the hearing, Mr. Anguiano gave conflicting testimony concerning the fare allegedly paid to Mr. Abdi. He alleged he paid \$10.50 in the DCS complaint, and \$13 in the CCHR Complaint. When questioned about these inconsistencies, Mr. Anguiano testified “First I said \$10.50, then \$12, then \$13. It’s all in the same ballpark figure. It’s not \$100 difference. It’s a couple of bucks.” (Tr. 63). “To [Mr. Abdi], \$7 may be important to you because that might be food on the table for [his] children.” (*Id.*).

<sup>4</sup> The findings by the Department are not dispositive here. As explained above, DCS enforces consumer and business protection ordinances. By contrast, the Commission is charged with “investigat[ing] complaints of discrimination, enforc[ing] civil rights ordinances and promoting harmony and understanding among various segments of society.” See CHRO Section 2-120-480. Given the different ordinances enforced by each agency, a finding of liability regarding a DCS enforced ordinance does not automatically mean that a violation of the CHRO occurred. The Commission makes its own determination based on the evidence presented at the Commission’s hearing.

Moreover, the ruling by the Department does not have any collateral estoppel or *res judicata* effect here because Complainant’s age and race discrimination claims were not litigated in that forum and no factual or legal determinations were made concerning those allegations of discrimination. See *Gott v. Novak*, CCHR No. 02-H-1/2 (Aug. 21, 2002) (collateral estoppel not applicable because the discrimination issues were not actually litigated and determined); *Gee v. Bd. of Educ. of the City of Chicago*, CCHR No. 01-E-112 (Jan. 6, 2004) (*res judicata* did not apply in CCHR proceeding where Illinois Education Labor Relations board proceeding did not and could not

### III. APPLICABLE LEGAL STANDARDS

The Chicago Human Rights Ordinance prohibits, among other things, age and race discrimination involving the full use of a public accommodation. Section 2-160-070 of the CHRO provides, in relevant part, as follows:

No person that owns, leases, rents, operates, manages or in any manner controls a public accommodation shall withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's race ...[or] ... age...<sup>5</sup>

Regulation 520.110 provides that:

“Full use” of a public accommodation means that all parts of the premises open for public use shall be available to persons who are members of a Protected Class... at all times and under the same conditions as the premises are available to all other persons, and that the services offered to persons who are members of a Protected Class shall be offered under the same terms and conditions as are applied to all other persons.

The CHRO prohibits more than just the discriminatory withholding or denial of a public accommodation. Regulation 520.150 (a) also provides that:

Harassment on the basis of actual or perceived membership in a Protected Class...is a violation of the [C]HRO. Any person who owns, leases, rents, operates, manages or in any manner controls a public accommodation has an affirmative duty to maintain a public accommodation environment free of harassment on the basis of membership in a Protected Class.

Thus, slurs and other verbal or physical conduct relating to an individual's age or race can also constitute a violation of the CHRO regarding a public accommodation. See Comm. Reg. 520.150 (b). To establish such a violation, the Complainant must show that the slurs or conduct: (1) had the purpose or effect of creating an intimidating, hostile or offensive environment; (2) had the purpose or effect of unreasonably interfering with his full use of the public accommodation; or (3) otherwise adversely affected his full use of the public accommodation. *Id.*

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consider sexual orientation discrimination). Indeed, the violations found by the Department had nothing to do with race or age discrimination. They involved only findings that Mr. Abdi had been discourteous and refused to give Mr. Anguiano his luggage. (See Resp. Ex. 2 and Tr. 56-57). Accordingly, the Department's order has no preclusive effect here.

<sup>5</sup> A public accommodation is defined as “a place, business establishment or agency that sells, leases, provides or offers any product, facility or service to the general public....” See CHRO Section 2-160-020. The Commission determines whether or not a case involves a public accommodation by considering whether the particular service or facility at issue is open to the general public. See *Maat v. Chicago Police Dept.* CCHR No. 04-P-054 (Dec. 30, 2005); *Mukemu v. Sun Taxi Assoc.*, et al, CCHR No. 02-PA-011 (Feb. 5, 2002). This definition is met here because the taxi service at issue was open to the general public.

Based on the singular or abbreviated nature of many of the contacts between members of the public and public accommodations, a single incident of verbal abuse may be sufficient to establish a violation of the CHRO where that conduct results in the person using the public accommodation being served differently than other members of the public because of his or her membership in a protected group. See *Brekke v. Delia et al.*, CCHR No. 01-PA-110 & 117 (Jul. 22, 2005). However, not every insult, discourtesy or derogatory comment will necessarily rise to the level of a violation. *Id.*; see also *Craig v. New Crystal Restaurant*, CCHR No. 92-PA-040 (Oct. 19, 1995). Moreover, merely stating a known fact or belief about a person's protected class is not necessarily discriminatory. *Brekke*, 01-PA-110 & 117 at p. 6. Rather, the Commission considers the nature and context of the comment to determine if it was so "separating or belittling" that it created a hostile environment for the complainant during the use of the public accommodation. *Id.*; see also *Maat v. Chicago Police Department*, CCHR No. 04-P-54 (Dec. 30, 2005).

In *Maat*, the complainant alleged that she was disabled and used a wheelchair. In one incident, she called the Chicago Police Department ("CPD") regarding a domestic disturbance resulting in property damage and verbal abuse and asked the police to remove her son from her home and take him to a hospital for individuals with mental disabilities. They refused. On subsequent calls for help, several officers asked complainant's children if she had a "mental health disability" and called her "crazy" because she had previously reported the officers to the Internal Affairs Division of the CPD and their sergeant. *Id.* at p. 1. The complainant further alleged that the officers commented that there was "something wrong with [her] for asking them to remove [her] children from [her home]." *Id.* at p. 2. Complainant asserted that the officers' comments constituted discrimination in the use of a public accommodation based on her disability.

The Commission dismissed the complaint because the officers' comments were not sufficiently "separating or belittling" that they created a hostile environment for the complainant. The Commission found that while insulting, the term "crazy" was not an "inherently derogatory reference" to mental disability because "people use the term in common speech to describe behavior they think unusual or ill-advised without any judgment that a person has a diagnosable mental disability." *Id.* at p. 4. Moreover, the officers were merely complaining about complainant having reported them to their superiors.

The Commission further found that the officers' inquiries concerning whether complainant had a "mental health disability" were not sufficiently separating or belittling because "merely making an inquiry or even stating a belief about a person having a mental disability was not discriminatory given the officers' need to assess the situation at complainant's home." *Id.* at p. 4. Therefore, the Commission determined that the officers were "disapproving, argumentative, or discourteous" but their comments did not rise to the level of creating a hostile environment regarding complainant's actual or perceived disability. *Id.*

By contrast, in *Craig*, the complainant went to a restaurant that he frequented. After receiving poor service despite being a regular customer, he complained to several waitresses and said that if it were his restaurant, he would fire them all. In response, one of the waitresses quipped "I don't know who he thinks he is, that holier than thou damn faggot." *Craig*, 92-PA-040 at p. 3. The Commission found a violation of the CHRO based on harassment because the word "faggot" was a discriminatory term that "often has the purpose and effect of separating the

person addressed from other [heterosexual] persons.” *Id.* at p. 10.<sup>6</sup> In addition, the person who made the comment knew that the complainant was gay, directed the statement to the complainant and made the statement to belittle him. *Id.* at pp. 10-11.

In this case, the question is whether the nature and context of Mr. Abdi’s comments were more like those set forth in *Maat*, or those analyzed in *Craig*.

#### IV. CONCLUSIONS OF LAW AND ANALYSIS

This case presents a prime example of how a simple misunderstanding and a failure to communicate can lead to an unfortunate series of events. The Commission agrees with the hearing officer’s conclusion that a violation of the CHRO did not occur because given the nature and context of the verbal exchange between the parties during the cab ride, Mr. Abdi’s comments were not sufficiently separating or belittling to create a hostile environment for Mr. Anguiano during the use of a public accommodation.

##### A. The Evidence Did Not Show That Complainant Was Denied Access to a Public Accommodation.

As an initial matter, this is not a case in which the Respondent denied the Complainant service outright because of his protected class status. Indeed, the evidence showed that Mr. Anguiano’s access to a public accommodation was not withheld, denied, curtailed or limited in violation of the CHRO. Based on his own testimony, at the beginning of the cab ride, Mr. Anguiano gave Mr. Abdi his home address. However, Mr. Anguiano admitted that as their altercation intensified, he told Mr. Abdi to stop the cab and drop him off on the corner of Archer and New England Avenues, which was a block or so from his home. (Tr. 16-17). He admitted that he did so because he did not want Mr. Abdi to see exactly where he lived, and that Mr. Abdi dropped him off where he requested. Therefore, Mr. Anguiano received the cab service that he sought -- a ride from Midway to his destination -- and was not denied access to a public accommodation.<sup>7</sup>

The real issue here is whether Mr. Abdi made the racist and ageist statements alleged in the Complaint, and whether those statements rose to the level of discriminatory harassment in the use of a public accommodation in violation of the CHRO.

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<sup>6</sup> Citing *Bailey v. Binyon*, 583 F. Supp. 923, 927 (N.D. Ill. 1984), the Commission compared the term “faggot” to the use of the word “nigger.” In *Binyon*, the court held that the racist term automatically separates the person addressed from every non-black person and was, therefore, discriminatory *per se*. *Id.*

<sup>7</sup> Incidentally, the hearing officer found that Mr. Anguiano never paid the fare for the cab ride. His allegations and testimony concerning the amount allegedly paid was inconsistent. In the CCHR Complaint, he alleged he paid \$13. In the DCS complaint, he alleged he paid \$10.50. At the hearing, he testified that he paid Respondent \$12. Complainant’s explanation for that inconsistency -- that it was only a few dollars difference -- lacked credibility. By contrast, Mr. Abdi credibly testified that while the police officers told Mr. Anguiano to pay the fare, he never did.



**B. The Evidence Did Not Show That Respondent Made A Racist Statement While Providing a Public Accommodation.**

In his CCHR Complaint, Mr. Anguiano alleged that Mr. Abdi “pulled the cab over, told him to get out and said, “Fuck you, you stupid illegal Mexican.” (See Compl. p. 2). The complainant has the burden of proving his claims of discrimination by a preponderance of the evidence and, therefore, had to establish at the hearing that it was more probable than not that the respondent made this race-based comment. See *Long v. Chicago Public Library*, CCHR No. 00-PA-013 (Jan. 18, 2006); *Little v. Tommy Gun's Garage Inc.*, CCHR No. 99-E-11 (Jan. 24, 2002); and *Mahaffey v. University of Chicago Hospitals*, CCHR No. 93-E-221 (Jul. 22, 1998). A complainant's failure to provide credible evidence of discriminatory statements, or providing contradictory evidence of such statements supports a finding that the statements were never made. See e.g. *Little*, 99-E-11 at p. 23 (complainant's contradictory allegations and testimony at the hearing regarding racial threats of bodily harm made against her by respondent's employees established her lack of credibility and instead showed that her assertions were merely “embellishment or hyperbole”).

The hearing officer found that, like *Little* and *Long*, the race-based statement at issue here was never made. First, Mr. Anguiano provided no credible evidence that Mr. Abdi actually made the comment, despite being asked by the hearing officer twice to describe what Mr. Abdi said. Instead, Mr. Anguiano gave only vague testimony that Mr. Abdi said “something about being Mexican” and was “talking about [Mexico], and everything, not saying nothing nice about it.” (Tr. 6, 10). Even if true, the Commission agrees with the hearing officer that there is nothing inherently or inferentially harassing or discriminatory in such generalized comments. Moreover, Mr. Anguiano's testimony about the statement differed drastically from what he alleged in his Complaint. If Mr. Abdi had in fact said “Fuck you, you stupid illegal Mexican” to him, it is hard to believe that Mr. Anguiano would have forgotten such a patently offensive comment when he testified at the hearing. Yet, he failed to testify to this comment at the hearing.

Second, Mr. Anguiano offered no credible evidence that Mr. Abdi knew or perceived him to be of Mexican descent. Based on the observations of the hearing officer at the hearing, it is not obvious that Mr. Anguiano is Mexican or could be perceived as Mexican. Mr. Anguiano never testified that he told Mr. Abdi his race before, during or after the cab ride. To the contrary, he admitted that before the argument in the cab, he did not have a friendly conversation with Mr. Abdi in which they asked each other about their backgrounds. (Tr. 14). By contrast, Mr. Abdi testified credibly that he never had a chance to talk to Mr. Anguiano to ask him about his race before the argument began and that he did not discriminate against him on that basis. (Tr. 68). Mr. Anguiano's lack of evidence and Mr. Abdi's credible testimony further support a finding that Mr. Abdi did not make the racist comment alleged in the Complaint. See *Long*, 00-PA-13 at \*4-5 (further finding that respondent's employees never made the “dirty Jews” comment because there was no evidence that they knew or perceived the complainant to be Jewish).

**C. Respondent's Age-Related Comments Were Not Sufficiently Separating or Belittling to Establish a Violation of the CHRO.**

In addition to his allegations of race discrimination, Mr. Anguiano also asserted that Mr. Abdi made discriminatory statements about his age. In his Complaint, Mr. Anguiano alleged that Mr. Abdi called him “a fat old man, stupid and not smart enough to get a job.” At the

hearing, Mr. Anguiano credibly testified twice that Mr. Abdi said he was “too old not to get a job” and “too old ... to be [un] able to support [himself].” (Tr. 6, 10-11). Mr. Anguiano also testified that he had told Mr. Abdi that he did not work because he was on disability.

The hearing officer found Mr. Anguiano’s testimony credible here because, unlike the allegations of race discrimination, he testified specifically and consistently about the age-related comments made by Mr. Abdi. Moreover, Mr. Anguiano provided evidence of how Mr. Abdi could have perceived him to be elderly because the Complainant told Mr. Abdi that he was on disability and did not work.<sup>8</sup>

The Commission agrees with the hearing officer that, given the nature and the context in which they were made, these comments were not sufficiently separating or belittling to establish harassment based on age in violation of the CHRO. First, not every insult, discourtesy or derogatory comment will necessarily rise to the level of a violation. *See Brekke*, 01-PA-110 & 117 at p. 3. Indeed, merely stating a known fact or belief about a person’s protected class is not automatically discriminatory. *Id.* at p. 6. Calling someone “old,” might be rude in some circumstances, but that word alone is not inherently discriminatory. Here, the term “old” does not have the same separating and belittling effect as would calling someone a “faggot” or “nigger,” which on their face, even if said only once, could have the purpose and effect of separating the person addressed from other non-homosexual or non-African American persons. Therefore, the nature of Mr. Abdi’s comment was not like that made in the *Craig* case, which makes that decision distinguishable.

The statements made here are more like those in *Maat* in which the respondent’s employees called the complainant “crazy,” asked if she “had a mental health disability” and said “something was wrong” with her given her conduct. Similar to the Commission’s finding in *Maat*, the term “old” might be insulting or impolite but people use the term in common speech without any judgment that a person is actually elderly. *See Maat*, 04-P-054 at p. 4.

Second, the nature and context in which the statement was made must also be considered. *See Brekke*, 01-PA-110 & 117 at p.3 and *Craig*, 92-PA-040 at p.10. Here, the evidence shows that Mr. Anguiano and Mr. Abdi were engaged in a “war of words.” Neither exhibited model behavior on the night in question and both of them made angry comments to one another. However, Mr. Anguiano’s misguided assumption that Mr. Abdi had gone to complain about the short trip to his home was the catalyst for this entire event. Mr. Abdi gave credible testimony that by the time he returned to the cab, Mr. Anguiano was angry and had become agitated. Instead of asking Mr. Abdi why he left the cab in the first place, Mr. Anguiano started the argument by shouting at him. The unfortunate verbal exchange between Mr. Abdi and Mr. Anguiano escalated from there. Mr. Abdi testified credibly that, in his anger, Mr. Anguiano himself used racial and/or ethnic insults by telling Mr. Abdi to “go back to the Middle East” or back to Africa.<sup>9</sup> Mr. Abdi further testified credibly that Mr. Anguiano’s insults and shouting

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<sup>8</sup> The evidence supported only a finding that Mr. Abdi perceived Mr. Anguiano to be old. There was no evidence showing that Mr. Abdi knew or was told Mr. Anguiano’s age at the time.

<sup>9</sup> The arguably racist insults persisted in Mr. Anguiano’s DCS complaint in which he described Mr. Abdi as “dirty looking.” (*See Resp. Ex. 2*). He further insulted Mr. Abdi during the hearing when he snidely remarked that a few dollars for a fare might be important to Mr. Abdi because it “could be food on the table for his family.” (Tr. 63).

escalated to the point where he had to close and lock the safety shield between himself and Mr. Anguiano. Mr. Anguiano did not contradict this testimony.


While in *Craig* the Commission held that expressing displeasure with the service one receives does not justify a respondent's use of discriminatory slurs in response, here the Complainant did more than just complain. *Craig*, 92-PA-040 at p. 11. He caused this entire incident, became physically agitated toward Mr. Abdi, verbally abusive, and in fact, used a racial and/or ethnic slur himself.

Given the nature and context of the exchange between Mr. Anguiano and Mr. Abdi, calling Mr. Anguiano "old," "unable to get a job" or "to support himself" was not sufficiently separating and belittling to rise to the level of discriminatory conduct in violation of the CHRO. For the same reasons, these comments failed to satisfy any of the factors set forth in Commission Regulation 520.150, which require evidence that the slurs or conduct (1) had the purpose or effect of creating an intimidating, hostile or offensive environment; (2) had the purpose or effect of unreasonably interfering with an individual's full use of the public accommodation; or (3) otherwise adversely affected an individual's full use of the public accommodation. *Id.* Mr. Abdi's comments simply were not sufficient, either in delivery or context to create a hostile environment in the provision of a public accommodation.<sup>10</sup>

## V. CONCLUSION

Accordingly, the Commission adopts the hearing officer's recommendations and finds for Respondent Muhammed Abdi.

### CHICAGO COMMISSION ON HUMAN RELATIONS



By: Dana V. Starks, Chair and Commissioner  
Entered: September 16, 2009

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<sup>10</sup> Finally, the hearing officer also found that Mr. Abdi's conduct of closing the safety shield, keeping Mr. Anguiano's luggage and calling the police had nothing to do with discriminatory harassment. These actions occurred because of Mr. Anguiano's verbal abuse and his refusal to pay the cab fare.