

State of Wisconsin



Labor and Industry Review Commission

Francisco Flores, Jr., Complainant

Fair Employment Decision¹

City of Milwaukee, Respondent

Dated and Mailed:

ERD Case No. CR202401947

November 12, 2025

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The decision of the administrative law judge is **affirmed**. Accordingly, the complainant's complaint is dismissed.

By the Commission:

/s/

Michael H. Gillick, Chairperson

/s/

Georgia E. Maxwell, Commissioner

/s/

Marilyn Townsend, Commissioner

¹ **Appeal Rights:** See the green enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the Labor and Industry Review Commission as a respondent in the petition for judicial review. Appeal rights and answers to frequently asked questions about appealing a fair employment decision to circuit court are also available on the commission's website <http://lirc.wisconsin.gov>.

Procedural Posture

This case is before the commission to consider the complainant's allegation that the respondent discriminated against him with respect to licensing, in violation of the Wisconsin Fair Employment Act (hereinafter "Act"). An administrative law judge for the Equal Rights Division of the Department of Workforce Development issued a decision dismissing the complaint based upon a lack of jurisdiction. The complainant filed a timely petition for commission review of that decision.

The commission has considered the petition and the positions of the parties and has reviewed the information that was before the administrative law judge. Based on its review, the commission agrees with the decision of the administrative law judge, and adopts the findings and conclusions in that decision as its own.

Memorandum Opinion

This matter concerns licensing related to tattoos and body piercing. The Wisconsin Department of Safety and Professional Services (DSPS) has broad responsibility for ensuring the safe and competent practice of licensed professionals in Wisconsin.² Under DSPS rules, no person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer, or designate or represent himself or herself as a body piercer unless the person has obtained a license from the department. Wis. Admin. Code § SPS 221.04(1)(b). This applies to practitioners. Separately, the code has a section that applies to business establishments, which indicates that no person may operate an establishment until the person has obtained a license from the department. Wis. Admin. Code § SPS 221.04(1)(a). Pursuant to an agreement between DSPS and the City of Milwaukee, however, establishment licenses for businesses in the City of Milwaukee are obtained through the City. *See* MCO § 75-23(4); Wis. Stat. § 463.16(1).

The complainant has alleged that the respondent, City of Milwaukee, decided not to renew his establishment license based upon his arrest record and in retaliation for having opposed an act of discrimination. The administrative law judge found that this complaint was not covered by the Act. The commission agrees.

The Act makes it unlawful to refuse to license "an individual" because of a discriminatory reason. Wis. Stat. § 111.322(1). A license, under the Act, is a permission required by a government unit for the "undertaking, practice or continuation of any occupation or profession." Wis. Stat. § 111.32(10).

The license which the complainant was denied was related to his business establishment, World Class Tattoos, LLC, and not to the complainant as an individual practitioner. Therefore, the statutory prohibition against discrimination with respect to the refusal to license "an individual" does not apply. Further, the establishment license that was denied in this case was not a license required in

² *See* <https://dspd.wi.gov/Pages/AboutDSPS/Divisions.aspx>

order for the complainant to continue in his occupation or profession, as required for coverage under the Act. Rather, as the administrative law judge explained in her decision, the complainant was an individual who could continue to work in his profession as a tattoo artist with or without an establishment license.

In his petition for commission review the complainant argues otherwise; he contends that an establishment license is required to allow him to engage in his chosen profession of tattoo artist. However, while the complainant's preference may be to perform his services as part of his own business, the complainant has not asserted that there is any requirement that a tattoo artist work out of his own shop, and the commission sees no reason to believe this is the case. To the contrary, tattoo artists, like hair stylists, can perform their services under the auspices of a business owned and licensed by a second party.

Because an establishment license is not required for an individual tattoo artist to pursue his or her profession, the commission agrees with the administrative law judge that the complainant's allegations do not set forth a cause of action under the Act. The dismissal of the complaint is, therefore, affirmed.

cc: Atty. Connor Dartt, for the complainant
Atty. Katherine A. Headley, for the respondent

Editor's Note: This case has been appealed to circuit court.