

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

THE SECRETARY, UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT, ON BEHALF OF MELISSA D. GARRETT,
JAMAAL KING, AMANDA GARRETT, CHRISTOPHER DOSS (A/K/A
TOMMY DOSS) AND THREE MINOR CHILDREN,

Petitioner

v.

OPAL MAZE,

Respondent

APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE UNITED
STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

THOMAS E. PEREZ
Assistant Attorney General

DENNIS J. DIMSEY
ROSCOE JONES, JR.
Attorneys
U.S. Department of Justice
Civil Rights Division
Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 2044-4403
(202) 305-7347

Case No. 11-_____

The Secretary, United States Department Of Housing And Urban Development,
On Behalf Of Melissa D. Garrett, Jamaal King, Amanda Garrett, Christopher Doss
(A/K/A Tommy Doss) And Three Minor Children

v.

Opal Maze

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1 and 11th Cir. R. 26.1-1, counsel for
petitioner The Secretary, United States Department of Housing And Urban
Development, files this Certificate of Interested Persons And Corporate Disclosure
Statement. The following persons may have an interest in the outcome of this
case:

Melissa D. Garret, Complainant

Jamaal King, Complainant

Amanda Garrett, Complainant

Christopher Doss (A/K/A Tommy Doss), Complainant

Opal Minnie Maze, Respondent

Clint L. Maze, Counsel for Respondent

Thomas E. Perez, Assistant Attorney General, Civil Rights Division, United
States Department of Justice

Dennis J. Dimsey, Deputy Chief, Appellate Section, Civil Rights Division,
United States Department of Justice

Roscoe Jones, Jr., Attorney, Appellate Section, Civil Rights Division,
United States Department of Justice

Shaun Donovan, Secretary, United States Department of Housing and Urban
Development

J. Jeremiah Mahoney, Administrative Law Judge, United States Department
of Housing and Urban Development

Donnie R. Murray, Regional Counsel, Region IV, United States Department
of Housing and Urban Development

Jacklyn L. Ringhausen, Deputy Regional Counsel, United States Department
of Housing and Urban Development

Sherri R. Smith, Associate Regional Counsel, United States Department of
Housing and Urban Development

Sylloris D. Lampkin, Trial Attorney, United States Department of Housing
and Urban Development

Cinthia Matos, Staff Assistant, United States Department of Housing and
Urban Development

Melissa M. Anderson, Trial Attorney, Office of the General Counsel, United States Department of Housing and Urban Development

Kathleen M. Pennington, United States Department of Housing and Urban Development

Laurel Blatchford, Secretarial Designee, United States Department of Housing and Urban Development

Sara K. Pratt, United States Department of Housing and Urban Development

Damasque Blagburn, United States Department of Housing and Urban Development

Secretarial Review Clerk, Office of Administrative Law Judges, United States Department of Housing and Urban Development

Docket Clerk, Office of Administrative Law Judges, United States Department of Housing and Urban Development

ROSCOE JONES, JR.
Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 11-_____

THE SECRETARY, UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT, ON BEHALF OF MELISSA D. GARRETT,
JAMAAL KING, AMANDA GARRETT, CHRISTOPHER DOSS (A/K/A
TOMMY DOSS) AND THREE MINOR CHILDREN,

Petitioner

v.

OPAL MAZE,

Respondent

APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE UNITED
STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Petitioner, the Secretary of the United States Department of Housing and Urban Development (Secretary or HUD), pursuant to Section 812(j) of the Fair Housing Act, 42 U.S.C. 3612(j), and Rule 15(b)(1) of the Federal Rules of Appellate Procedure, files in response to Opal Maze's Petition for Review¹ this Application to Enforce An Agency Order issued in *HUD on behalf of Melissa D. Garrett, Jamaal King, Amanda Garrett, Christopher Doss (A/K/A Tommy Doss)*

¹ The Petition for Review is docketed in this Court as No. 11-12863.

and three minor children v. Opal Maze, et al., HUDALJ No. 10-M-015-FH4, on May 25, 2011. A copy of this final order, as well as the preceding orders of the Secretary and Administrative Law Judge (ALJ), are attached to this Application. See Second Order on Secretarial Review, 5/25/11, Att. A; Initial Decision and Order, 1/28/11, Att. B; First Order on Secretarial Review, 2/25/11, Att. C; and Initial Decision Upon Remand, 4/26/11, Att. D.

PROCEEDINGS

1. On March 13, 2009, Jamaal King, Melissa Garrett, Amanda Garrett, Christopher “Tommy” Doss, and three minor children (Complainants) filed an administrative complaint with HUD against Phillip Maze² and respondent Opal Maze alleging violations of the Fair Housing Act, 42 U.S.C. 3601 *et seq.* (the Act). Doc. 1 at 1-7.³

On December 17, 2009, the Charging Party⁴ issued a Determination of Reasonable Cause and Charge of Discrimination on behalf of Complainants,

² Phillip Maze died on June 16, 2011, shortly after issuance of the final agency order in this case.

³ “Doc. ___” refers to the document number as entered on the ALJ’s docket sheet.

⁴ The term “Charging Party” refers to the Secretary of HUD, which, through the Office of General Counsel and on behalf of aggrieved persons, investigates allegations of discrimination and may issue a Charge of Discrimination pursuant to the Act. 42 U.S.C. 3610(g)(1) and (2); see also 54 Fed. Reg. 13,121 (delegating
(continued...))

charging Philip Maze and Opal Maze with violating Sections 804(a), 804(b), 804(c), and 818 of the Act, 42 U.S.C. 3604(a), (b), (c), and 42 U.S.C. 3617. Att. B at 4-5. The Charging Party alleged that Philip Maze engaged in discriminatory housing practices by, *inter alia*, forcing Melissa Garrett and her family to move out of a mobile home because he objected to the race of Complainant King, an African-American guest; imposing a more restrictive guest policy on the family because they associated with an African American; disconnecting the water service to the Complainants' home after observing an African-American guest; and making numerous oral statements to Melissa Garrett and Christopher Doss that indicated an impermissible preference based upon race, *i.e.*, that Phillip Maze did not approve of Melissa Garrett, a white female, having an interracial relationship with Jamaal King, an African-American male. Att. B at 4-7, 12. The Charging Party also alleged that Phillip Maze intimidated, threatened, and coerced Complainants when they exercised their right to a rental tenancy – *i.e.*, that Philip Maze turned off the water supply to the mobile home because he disapproved of Melissa Garrett's interracial relationship. Att. B at 3, 6, 12. Finally, the Charging Party alleged that Opal Maze, the property owner and mother of Phillip Maze, was jointly and severally liable for Phillip Maze's violations of the Act. Att. B at 7-8.

(...continued)

charging authority to the General Counsel); 67 Fed. Reg. 44,234 (redelegating charging authority to the Regional Counsel).

2. On May 25-26, 2010, the ALJ held a hearing in this case. Att. B at 5. At the hearing, the Charging Party presented the testimony of 11 witnesses and 41 exhibits supporting the charges as set forth above. Doc. 24 at 18-468. In Opal Maze's defense, Dr. Robert Hargraves, a family practitioner, testified at the hearing that Opal Maze has not been competent to conduct business transactions since 2004 due to dementia, Doc. 24 at 473-480. Phillip Maze testified in his own defense. Doc. 24 at 484-516.

The Charging Party filed a post-hearing brief alleging, *inter alia*, that Opal Maze is vicariously liable for Phillip Maze's illegal discrimination. Att. B at 7-8. Specifically, the Charging Party alleged that Opal Maze authorized Phillip Maze to act as her agent, or alternatively, Kenneth Maze, as Opal's attorney-in-fact, authorized Phillip Maze to act as Opal's agent. Att. B at 8. The Charging Party also alleged that the Act exempts neither Phillip Maze nor Opal Maze from liability. Att. B at 9-10. In particular, the Charging Party alleged that Opal Maze could not avail herself of the Act's home owners' exemption under 42 U.S.C. 3603(b)(1) because she used Phillip Maze as an agent to rent the subject property.⁵ Att. B at 10.

⁵ The Act exempts from its coverage a single-family house sold or rented by an owner who (1) does not own more than three single-family houses at any one time; (2) does not "use in any manner * * * the sales or rental services of any real estate broker, agent, or salesman, or * * * person in the business of selling or
(continued...)

On January 28, 2011, the ALJ issued an Initial Decision and Order concluding that Phillip Maze discriminated against the Complainants in violation of the Act. Att. B at 12, 15. The decision awarded Complainants a total of \$37,500 for emotional distress caused by Philip Maze's discriminatory actions, as well as \$737.50 to Melissa Garrett and \$927.50 to Christopher Doss and Amanda Garrett for losses and inconvenience, and imposed a civil penalty of \$10,000 on Philip Maze. Att. B at 15-16. The ALJ held, however, that "Opal Maze cannot be held liable for Philip Maze's actions under agency principles because she had no capacity to authorize, and did not actually or apparently authorize Phillip to rent the mobile home to the Complainants, nor did she have the capacity to take the racially discriminatory actions complained of in this action." Att. B at 9.

3. On February 11, 2011, the Charging Party filed with the Secretary a Petition for Secretarial Review of the Initial Decision. The petition requested that the Secretary set aside, as contrary to law and fact, the ALJ's finding that no agency relationship existed between Phillip and Opal Maze. Att. C at 3. On February 25, 2011, the Secretary issued an Order on Secretarial Review granting the Charging Party's petition, setting aside the ALJ's Initial Decision and Order issued on January 28, 2011. The Secretary found, *inter alia*, that the evidence

(...continued)

renting dwellings"; and (3) does not advertise the housing in violation of subsection 3604(c). See 42 U.S.C. 3603(b)(1).

demonstrated that Phillip Maze violated the Act; Phillip Maze was an agent of respondent Opal Maze by virtue of Kenneth Maze, who had the power of attorney for Opal Maze, delegating to Phillip Maze the authority to act as Opal Maze's agent for renting her rental properties; and Opal Maze was vicariously liable for the illegal discrimination of Phillip Maze. The Secretary remanded the case to the ALJ for further proceedings consistent with the Order on Secretarial Review. Att. C at 7.

4. On April 26, 2011, the ALJ issued an Initial Decision on Remand from the Secretary's order. In the decision, the ALJ found that Philip Maze was delegated by Opal Maze's attorney-in-fact to act as her agent with regard to the rental of the mobile home to Complainants. Att. D at 1-2, 9. The ALJ also found that because Phillip Maze was Opal Maze's agent, both were entitled to the Act's exemption for owners and thus had no liability under subsections 804(a) and (b) of the Act, 42 U.S.C. 3604(a) and (b). Att. D at 7.

5. On May 12, 2011, the Charging Party filed with the Secretary a Petition for Secretarial Review of the Initial Decision upon Remand. The petition requested that the Secretary set aside, as contrary to law, the ALJ's decision on remand on the ground that the ALJ erred in finding that Phillip Maze and respondent Opal Maze satisfied the owners' exception. Att. A at 2. On May 25, 2011, the Secretary issued a Second Order on Secretarial Review granting the

Charging Party's petition, and setting aside the ALJ's conclusions that Philip Maze and Opal Maze meet Section 3603(b)(1)'s exemption. The Secretary concluded that neither Opal nor Philip Maze are entitled to the owners' exemption and, thus, both are liable under subsections 804(a) and (b) of the Act. Att. A at 4.

Pursuant to 42 U.S.C. 3612(h)(1) and 24 C.F.R. 180.680(b)(1), the Secretary's Second Order on Secretarial Review became the final agency decision on May 25, 2011, because the Secretary issued a decision within 30 days of the ALJ's Initial Decision on Remand issued on April 26, 2011.

6. On June 24, 2011, pursuant to 42 U.S.C. 3612(j), Opal Maze filed in this Court a Petition for Review seeking relief from both Orders on Secretarial Review.

FACTS UPON WHICH VENUE IS BASED

Complainants Melissa Garrett, Amanda Garrett, Christopher Doss, and three minor children resided in a mobile home located in Arab, Alabama, at all times relevant to the underlying action. Att. B at 5. Respondent Opal Maze at all times relevant to the underlying action resided in Arab, Alabama. Att. B at 5. All of the alleged acts of discrimination occurred in Arab, Alabama. Att. B at 5-7. Thus, venue properly lies in this Court. See 28 U.S.C. 2343; 42 U.S.C. 3612(j)(1).

RELIEF REQUESTED

Pursuant to 42 U.S.C. 3612(j), the Secretary requests this Court to enter an order enforcing the Secretary's order of May 25, 2011.

CONCLUSION

This Court should grant HUD's Application to Enforce An Agency Order.

Respectfully submitted,

THOMAS E. PEREZ
Assistant Attorney General

DENNIS J. DIMSEY
ROSCOE JONES, JR.
Attorneys
U.S. Department of Justice
Civil Rights Division
Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044-4403
(202) 305-7347

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, an original and three copies of the foregoing APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT was served by Federal Express courier to the Clerk of the Court, and one copy on the following counsel of record:

Clint L. Maze
Burke, Beuoy & Maze, P.C.
725 North Brindlee Mountain Parkway
Arab, AL 35016
(counsel for Opal Maze)

ROSCOE JONES, JR.
Attorney