



**Division of
Human Rights**

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

MARCUS CONTE,

Complainant,

v.

THE BROOKLYN HOSPITAL CENTER, JOSHUA
WRIGHT,

Respondents.

DETERMINATION AFTER
INVESTIGATION

Case No.
10207504

On 4/6/2020, Marcus Conte filed a verified complaint with the New York State Division of Human Rights ("Division"), charging the above-named Respondents with an unlawful discriminatory practice relating to public accommodation because of race/color in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division has determined that it has jurisdiction in this matter and that PROBABLE CAUSE exists to believe that the Respondents have engaged in or are engaging in the unlawful discriminatory practice complained of.

Pursuant to the Human Rights Law, this matter is recommended for public hearing. The parties will be advised of further proceedings.

Dated: December 31, 2020
Albany, New York

STATE DIVISION OF HUMAN RIGHTS

By:

Victor P. DeAmelia
Regional Director

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

TO: Files

REGION: Albany

FROM: Victor P. DeAmelia
Regional Director

DATE: December 18, 2020

SDHR CASE NO: 10207504-20-P-R-

SUBJECT: Marcus Conte v. The Brooklyn Hospital Center, Joshua Wright

FINAL INVESTIGATION REPORT AND BASIS OF DETERMINATION

I. CASE SUMMARY

This is a verified complaint, filed by complainant, Marcus Conte, on Mon 4/6/2020. The complainant who is Caucasian, charges the respondent with unlawful discriminatory practices in relation to public accommodation because of race/color.

II. SUMMARY OF INVESTIGATION

Complainant's Position:

Complainant Marcus Conte believes he was discriminated due to his race/color when he was investigating COVID-19 related issues at Respondent The Brooklyn Hospital Center. Complainant asserts that he was harassed by Respondent Joshua Wright when he was asked to leave the property and told to "get your white privilege out of here."

Respondent's Position:

Respondents The Brooklyn Hospital Center and Joshua Wright deny that Complainant was discriminated against due to his race/color and claim that he was trespassing on private property and asked to leave. Respondent denies that their employee made a statement to complainant about his "white privilege."

Investigator's Steps:

- Held two one-party conferences on August 17, 2020 with Complainant and August 26, 2020 with Respondent
- Reviewed all material provided by Complainant and Respondents

Investigator's Observations:

Complainant Marcus Conte identifies as a YouTube Reporter and has a channel that he will post various stories on. Complainant asserts that Wednesday, April 1, 2020 he was at Respondent, The Brooklyn Hospital Center, to report on the COVID-19 pandemic. Complainant states that while he was on Respondent's property, he was verbally attacked and harassed by security guard, Respondent Joshua Wright.

Complainant asserts that as he approached the main entrance of the hospital, Respondent's security guards approached him and asked him to stop recording and move down the hill off of their property.

Complainant stated at conference that he did not believe the initial request to leave was discriminatory. However, Complainant does assert that the security guards were hostile towards him and that they exchanged some insults back and forth as he was walking away from the property.

Complainant stated that during this exchange, Respondent Wright told him to "get your white privilege out of here." Complainant recorded his visit to the hospital as well as the incident with the security guards.

Respondents deny that Complainant was discriminated against because of his race/color. Respondents deny that Complainant has a valid public accommodation complaint as he was not at the facilities for an appointment or to receive treatment. Respondents claim that Complainant had no right to be at the hospital and that therefore his claim should be dismissed. Respondent asserts that Complainant was violating hospital policy by recording.

Respondents further deny that Complainant was told to "get his white privilege out of here." At conference, Respondent Wright claimed that he asked Complainant if he had "rights and privileges to be there." Respondents further assert that Complainant had been using abusive language with the security guard prior to being asked to leave the premises. Respondents point to Complainant's own videos to claim that there was a hostile interaction prior to the incident that Complainant asserts happened.

A copy of the video was provided to the division. In hearing the recording, it does seem that one of guards is heard saying, "get your white privilege out of here." A review of the video also does confirm that Complainant may have said things that could be considered insulting to the guard; however, it is noted that Complainant is not heard making any reference to race.

Complainant asserts that the use of the term "white privilege" is no different than any other comment based on someone's race/color; especially in this context.

Submitted by: _____

Maria Miranda

Maria Miranda
Human Rights Specialist I

III. BASIS FOR DETERMINATION

Complainant Marcus Conte believes he was discriminated due to his race/color when he was investigating COVID-19 related issues at Respondent The Brooklyn Hospital Center. Complainant asserts that he was harassed by Respondent Joshua Wright when he was asked to leave the property and told to “get your white privilege out of here.”

The investigation revealed enough evidence to establish that Complainant may have been harassed by Respondents and that those actions may have denied him equal advantages or privileges of the public accommodation.

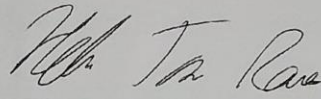
Respondents claim that Complainant was not on their property seeking a public accommodation because he was not there as a patient or visitor and that, as a result, this complaint should be dismissed on that basis. However, it is well stated law that hospitals are considered a place of public accommodation, and that Complainant was not there for an appointment or treatment does not warrant grounds for dismissal. The investigation did not reveal that Complainant was questioned on the reason why he was on the property on the day of the incident.

Issues of credibility are best resolved at a public hearing where testimony is taken under oath. Probable cause to believe that unlawful discrimination occurred exists when, after giving credence to the Complainant’s version of the facts, some evidence of discrimination exists.

Here, it would appear that Respondent Joshua Wright made the statement he is accused of making by Complainant. While Respondent denied making the comment, a recording does seem to support the assertion that the comment “get your white privilege out of here” was made. If the comment was said, it could be found to be harassment based on the totality of the circumstances that must be determined in a full evidentiary hearing of the matter, where issues of credibility will also be resolved.

The investigation revealed enough evidence to establish that there are material issues of fact in dispute. These issues include but are not limited to whether or not Respondent’s statement of “white privilege” was stated, and whether or not such a statement rises to the level of unlawful harassment in a place of public accommodation. These issues are best resolved at a public hearing where testimony will be taken under oath and witnesses are subject to cross examination, and a full record will be made to determine whether the Respondent’s violated the New York State Human Rights law.

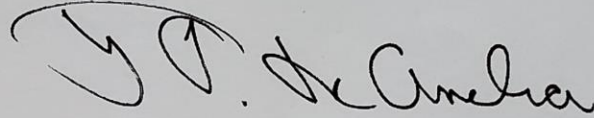
Reviewed & Approved:



Helen Torres Ramos
Human Rights Specialist II

IV. DETERMINATION

Based on the foregoing, I find PROBABLE CAUSE to support the allegations of the complaint.



Victor P. DeAmelia
Regional Director