

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE  
REQUEST FOR REVIEW BY:

**MELISSA “SKYLER” HYATT,**  
Petitioner.

Charge No.: 2023SP0083

ALS No.: 23-0221

## ORDER

This matter coming before the Commission on May 22, 2024, by a panel of three, Chair Mona Noriega, Commissioner Jacqueline Y. Collins, and Commissioner Janice M. Glenn presiding, upon the Request for Review (“Request”) of Melissa “Skyler” Hyatt (“Petitioner”),<sup>1</sup> of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2023SP0083, and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the dismissal of Counts A and B of the Petitioner's charge is **VACATED**, and the counts are **REMANDED** for a **FINDING OF SUBSTANTIAL EVIDENCE** and for further proceedings consistent with this Order and the Illinois Human Rights Act ("Act").<sup>2</sup>

## DISCUSSION

On August 12, 2022, the Petitioner filed a perfected charge of discrimination with the Respondent, alleging that Walmart Supercenter #254 (“Walmart 254”) denied him the full and equal enjoyment of its facilities and services due to his sexual orientation/gender identity, male (Count A), and his sex, male (Count B), in violation of Section 5-102(A) of the Act. On May 10, 2023, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

<sup>1</sup> In a request for review proceeding, the party filing the request for review is referred to as the “Petitioner” and the Illinois Department of Human Rights is the “Respondent.”

<sup>2</sup> This Order is entered pursuant to a 3-0-0 vote by the Commissioners.

## Factual Summary

Walmart, Inc. (“Walmart”) is a retail corporation that operates various stores in the United States, which offer some financial services, such as check cashing and money-order cashing services. Walmart 254 is a Walmart store located in Olney, Illinois.

The Petitioner stated that he is a transgender man. He said that his legal name as listed on his driver’s license at the time of the relevant events was Melissa Ann Hyatt, and the photo on his license reflected the Petitioner’s appearance (short haircut and facial hair) and listed his sex as male.

### October 16, 2021

Based on the charge of discrimination, the Petitioner said that, on October 16, 2021, he went to a Walmart store (“Walmart 550”) in Lawrenceville, Illinois to cash a MoneyGram money order for \$732.00, and, according to Walmart’s website, all that was required for a person to cash a money order was a valid, government-issued photo identification. He stated that the name of the payee on the money order and the name on his license matched.

The Petitioner stated that he gave the money order and his license to Walmart 550 employee Vicki Harmon. He said that, when Harmon saw the Petitioner’s license, Harmon had a “disgusted look” on her face. The Petitioner said that he made a joke about the song “A Boy Named Sue” and explained to Harmon that he was transgender and could not afford to change his legal name. He said that Harmon then rolled her eyes, entered data into a computer, and told the Petitioner that she could not cash the money order. The Petitioner stated that Harmon gave him a disbursement receipt that stated that Walmart was unable to process the Petitioner’s transaction based on information obtained from Certegy Check Services, Inc. (“Certegy”). The receipt also stated that, though Certegy provides Walmart with authentication and risk-management services, Certegy did not make the decision to process the Petitioner’s transaction.

The Petitioner said that he had previously cashed checks and money orders using his license at various Walmart stores without issue. He stated that he believed that, because Harmon did not agree with his gender identity, she did not enter all of his information into the database to ensure that the transaction would be completed.<sup>3</sup>

### October 18, 2021

The Petitioner stated that, on October 18, 2021, he went to Walmart 254 to cash the money order using the same driver’s license that he used at Walmart 550. He said that his money order was

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<sup>3</sup> The Petitioner filed a charge on August 12, 2022, against Walmart 550 related to the events that took place there (Charge No. 2023SP0084), which is also before the Commission on a request for review.

not cashed, and both an employee and a manager told him that his money order had been “red-flagged,” and that the Petitioner would not be able to cash the money order at any Walmart location.

The disbursement receipt that the Petitioner received from Walmart 254 stated that Walmart was unable to process the transaction based on information received from Certegy. A report that the Petitioner received from Certegy on October 19, 2021, stated that the reason that Certegy recommended that Walmart decline the Petitioner’s transaction was because “[the transaction] did not meet the acceptance guidelines, which may vary by check cashing location and transaction. Factors may include a combination of: the check number, dollar amount, check cashing history, or other transaction details.”

The Petitioner said that Walmart did not deny cisgender women and men its money-order cashing services. He stated that he was subsequently able to cash the money order at a local bank using the same identification that he provided to Walmart 550 and Walmart 254.

Walmart’s Director of Analytics, Reporting, and Systems Mike Greiner stated that there are several issues related to potential fraud with checks and money orders that might not cause them to clear, though checks typically have fewer issues than money orders. He said that, regarding processing checks and money orders, Walmart makes determinations based on a variety of variables and utilizes Certegy to conduct a risk analysis for the processing of an individual check or money order.

Walmart’s Consumer Fraud Training Module stated that Walmart employees are required to collect and verify customer information when prompted, including names, dates of birth, and photo identification. It also stated that, for MoneyGram money orders, Walmart will consider driver’s licenses as one acceptable form of identification. Walmart’s Check Cashing Procedures Instruction stated that Walmart will cash all money orders that are approved by Certegy. Greiner stated that the only data that Walmart collects from a customer as part of a money order clearance transaction is the customer’s name, date of birth, or Social Security Number, and a customer’s gender is not part of the process or variable in the Certegy analysis.

Greiner stated that, before October 16, 2021, Walmart had no record of the Petitioner cashing a money order, but the Petitioner had previously cashed four checks at Walmart 550 and Walmart 254. He said that one of the factors that was considered in declining the Petitioner’s money order transaction was that the Petitioner did not have a history of cashing money orders, all of the Petitioner’s previous transactions had been for cashing checks in smaller amounts than the \$732.00 money order, and all of the previous transactions occurred over two years earlier.

Greiner stated that Walmart does not “red flag” transactions, and that it reviews all transactions independently. He said that the Petitioner’s money order not being cashed at Walmart 254 after not being cashed at Walmart 550 indicated that Walmart’s “data-driven analysis was working as intended.”

A report provided by Walmart showed that, for Walmart 254 in October 2021, out of 10 money-order cashing transactions, 7 were approved, and 3 were denied. Another report showed that, for money-order cashing transactions in October 2021, Walmart stores in Illinois and Walmart stores across the United States as a whole had an 85% approval rate and a 15% denial rate.

In his charge of discrimination, the Petitioner stated that Walmart 254 provided money-order cashing services to cisgender people. In his memorandum in support of his Request, he said that, because the transgender population in the Olney area is extremely small, the seven customers that had their money orders cashed at Walmart 254 in October 2021 were not transgender.

## Analysis

### Jurisdiction and Timeliness

In its response to the Request, the Respondent questioned whether the Request was timely filed. The Respondent dismissed the Petitioner's charge on May 10, 2023, and the Petitioner had 90 days from the date of service of the notice of dismissal to file a request for review (by August 14, 2023). See 56 Ill. Admin. Code 5300.410(a). The Petitioner filed a motion for extension of time to file a request for review on August 11, 2023, and the Commission granted this motion, allowing the Petitioner to file a request no later than September 13, 2023. The Petitioner emailed his Request and supporting memorandum to the Commission on September 13, 2023. Though the Commission's date stamp reflects that it received the Petitioner's email on September 14, 2023, the relevant date is the date on which the email was sent. See 56 Ill. Admin. Code 5300.30(D) ("Service by...electronic means is complete on the date of transmission stated in the proof of service."). Therefore, the Petitioner's Request was timely filed, and the Commission has jurisdiction over the Request.

### Full and Equal Enjoyment

The Commission determines that substantial evidence exists as to Counts A and B. Under the Act, substantial evidence is "evidence which a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance." 775 ILCS 5/7A-102(D)(2).

The Act states that it is a violation for any person on the basis of unlawful discrimination to "[d]eny or refuse to another the full and equal enjoyment of the facilities, goods, and services of any public place of accommodation." 775 ILCS 5/5-102(A). Substantial evidence of discrimination in a public place of accommodation can be established by a showing that: (1) the petitioner falls within a protected class; (2) the petitioner was denied the full and equal enjoyment of the actor's facilities, goods, or services; and (3) a similarly situated person outside the petitioner's protected class was afforded the full use and enjoyment of the actor's facilities. *In re Walter Henry, Jr. and TCF Nat'l Bank of Ill.*, IHRC, ALS No. 10992, 2003 WL 24045369, \*3 (April 28, 2003). However, lack of evidence of any one element

of the *prima facie* case may not be fatal to a claim, as a more “holistic” approach can be appropriate in some instances. See *In re Request for Review by: Dorothy M. Flisk*, IHRC, ALS No. 23-0117, 2023 ILHUM LEXIS 167, \*4 (Sep. 26, 2023) (petitioner’s failure to present evidence of comparators was not fatal to her discrimination claim when considering the *Ortiz* holistic approach); *Ortiz v. Werner Enterprises, Inc.*, 834 F.3d 760, 765 (7th Cir. 2016) (ruling that, in examining a discrimination case, one should consider “whether the evidence would permit a reasonable factfinder to conclude that...[a] proscribed factor” caused an adverse employment action); see also *In re Request for Review by James “Robin” Robinson*, IHRC, ALS No. 19-0580, 2020 ILHUM LEXIS 183, \*2 (June 10, 2020) (employing the *Ortiz* approach in a public accommodations case). The meaning of full and equal enjoyment encompasses customers being able to fully avail themselves of all services offered by a public place of accommodation. See *Hobby Lobby Stores, Inc. v. Sommerville*, 2021 IL App (2d) 190362, ¶ 24 (acknowledging that denying the use of a store’s restroom because of a person’s sex constitutes discrimination under the Act).

The Petitioner argued that Walmart 254 denied him the full and equal enjoyment of its facilities and services due to his sexual orientation/gender identity (Count A) and his sex (Count B) when it would not cash his money order on October 18, 2021. First, the Petitioner falls within protected classes due to his sexual orientation/gender identity and his sex. See 775 ILCS 5/1-103(O-1). Next, he was denied the full and equal enjoyment of Walmart 254’s facilities and services because it did not cash his money order. Finally, using the holistic approach as stated in *Ortiz*, there is more than a mere scintilla of evidence that Walmart 254 denied the Petitioner the full and equal enjoyment of its facilities and services due to his protected classes. The Petitioner’s allegations of what occurred at Walmart 550 on October 16, 2021 (Harmon having a disgusted look on her face upon seeing the Petitioner’s driver’s license, rolling her eyes after the Petitioner stated that he was transgender, and then denying the Petitioner’s request to cash his money order) provide support for the Petitioner’s allegation here that Walmart 254 denied him its money-order cashing services due to him being transgender and male (see Charge No. 2023SP0084). Two days later, Walmart 254 would not cash the Petitioner’s money order after he presented the same driver’s license that he presented at Walmart 550 because it was “red-flagged” due to Walmart 550 not cashing it on October 16. Assessing all of these facts in the light most favorable to the Petitioner, the Commission finds that the third prong of the *prima facie* case has been satisfied. See *Cooper v. Salazar*, No. 98 C 2930, 2001 U.S. Dist. LEXIS 17952, \*3-4 (N.D. Ill. Nov. 1, 2001). Therefore, a *prima facie* case of denial of the full and equal enjoyment of Walmart 254’s facilities and services has been established as to Counts A and B.

#### **THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Counts A and B of the Petitioner’s charge of discrimination is **VACATED**, and the counts are **REMANDED** for a **FINDING OF SUBSTANTIAL EVIDENCE** and for further proceedings that are consistent with this Order and the Act.

***This Order is not yet final and appealable.***

**STATE OF ILLINOIS**

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**Entered this 29th day of MAY 2024.**

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**HUMAN RIGHTS COMMISSION**

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Chair Mona Noriega

Commissioner Jacqueline Y. Collins

Commissioner Janice M. Glenn