

**COMMONWEALTH OF PENNSYLVANIA**  
**GOVERNOR'S OFFICE**  
**PENNSYLVANIA HUMAN RELATIONS COMMISSION**

<b>EZEKIEL V. WILSON</b>	:	
<b>Complainant</b>	:	<b>PHRC CASE NO. 200200400</b>
<b>v.</b>	:	<b>EEOC CASE NO. 17FA261480</b>
	:	
<b>CONCERN PROFESSIONAL</b>	:	
<b>SERVICES</b>	:	
<b>Respondent</b>	:	

**STIPULATIONS**

**FINDINGS OF FACT**

**CONCLUSIONS OF LAW**

**OPINION**

**RECOMMENDATION OF HEARING PANEL MEMBERS**

**FINAL ORDER**

**DISSENTING RECOMMENDATION**

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

EZEKIEL V. WILSON, :  
 :  
 Complainant :  
 :  
 v. : PHRC Case No. 200200400  
 :  
 CONCERN PROFESSIONAL :  
 SERVICES, :  
 :  
 Respondent :

STIPULATIONS

The parties hereby stipulate to the following:

1. The Pennsylvania Human Relations Commission has jurisdiction over this complaint pursuant to the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963.

2. The Complainant herein is:

Ezekiel Wilson  
2757 Genesee Mills Road  
Mills, PA 16937

3. The Respondent herein is:

Concern Professional Services  
1 West Main Street  
Fleetwood, PA 19522

4. Respondent hired Complainant as a supplemental counselor effective May 10, 2000. *zw*  
*SPS*

~~2000.~~

5. At the time he was hired, Complainant was the only black employee at Respondent's Westfield, Pennsylvania facility.

6. Complainant is black.



~~7. As of January 2002, Complainant had been employed by Concern as a Supplemental Counselor since May 10, 2000.~~

MT zw  
GTS

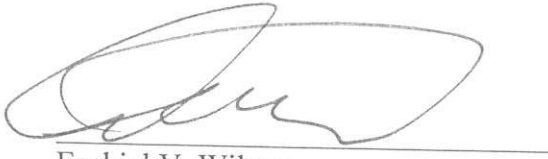
8. In January 2002, Respondent hired or promoted Mark Case and Ed Allen, race white, to be full-time Residential Counselors.

9. On or about May 3, 2002, the Assistant Director of the Westfield facility, Jeff Persing, race white, at the instruction of Juliee Franey, race white, Director of Human Resources, informed Complainant that his employment with Concern was terminated.

For Complainant:



William R. Fewell  
Attorney for the Complaint of  
Ezekiel Wilson



Ezekiel V. Wilson  
Complainant

For Respondent:



G. Thompson Bell, III  
Attorney for Respondent  
Concern Professional Services

## FINDINGS OF FACT

1. Concern Professional Services (hereinafter “Concern) is a non-profit child welfare organization that is licensed and regulated by the Pennsylvania Department of Public Welfare (“DPW”). (NT 2 112-114)
2. The Complainant, Ezekiel V. Wilson (hereinafter “Wilson”) is an African American male. (S 5,6)
3. Concern primarily deals with foster care and adoption but also provides services for adjudicated youth in a unit called the “Concern Treatment Unit for Boys” (“CTUB”) located at a facility in Westfield, Pennsylvania. (NT 1 130).
4. Concern closed the Westfield facility and permanently laid off all employees in August 2005. (NT 2 112)
5. Concern employed several types of counselors in its Westfield facility; full-time counselors, part time counselors and supplemental counselors. (NT 2 115)
6. In April of 2000, Orin Moore (hereinafter “Moore”), an employee of Concern, encouraged Wilson to apply for a job as a counselor for Concern. (NT 128-29)
7. On or about April 5, 2000, Wilson submitted a written application for employment as a counselor at Concern. (NT 1 27-28, JE 3)
8. Concern hired Wilson effective May 10, 2000 as a supplemental counselor in CTUB III. (JE 6,17, NT 1 146)
9. Supplemental counselors worked on an as-needed basis and on unplanned employment shifts in response to the immediate coverage needs of the facility. (NT 2 115)

10. At the time of his hire, Wilson was the only Black/African American counselor employed by Concern. (S 5)
11. At the time of his hire, Wilson told his supervisor that he would eventually like a full-time counselor position. (NT 1 242)
12. Employees in administrative positions such as Home Group Director, Assistant Home Group Director and Case Manager were responsible for scheduling supplemental counselors. (NT 2 139-140)
13. On occasion, senior full-time counselors would schedule supplemental counselors. (NT 2 140).
14. Wilson testified that he furnished Concern with his home phone number and the phone number at his gym to facilitate contact for supplemental duty. (NT 1 56).
15. Wilson maintained a telephone answering machine at his home so that Concern employees could leave messages for him. (NT 1 56; NT 2 295)
16. Wilson or his wife, Connie Wilson, followed up on messages left on his home's answering machine. (NT 2 298)
17. Moore was Wilson's immediate supervisor when Wilson commenced his employment with Concern. (NT 1 46)
18. Moore left his employment at Concern in late 2000. (NT 2 135-135)
19. Moore called Wilson numerous times to schedule him for work. (NT 2 134-135)
20. Byron Lee. (hereinafter "Lee"), Concern's Home Group Director, was Wilson's supervisor after Moore left Concern. (NT 1 132)
21. Lee was primarily responsible for calling Wilson for supplemental duty assignments. (NT 1 132-133)

22. At times, Lee visited the gym Wilson owned and operated when he needed to talk to Wilson in regard to scheduling. (NT 1 132)
23. Concern's records indicate that Wilson worked an average of 19 hours per week as a supplemental counselor in January and February 2001. (JE 17)
24. In May of 2001, Jeff Persing (hereinafter "Persing") became Assistant Home Group Director. (NT 1 69-71)
25. From February 2001, Wilson did not work for twelve consecutive weeks. (JE 17)
26. In January of 2002, Concern hired Marc Case (hereinafter "Case") and Edgar Allen (hereinafter "Allen") as full-time residential counselors. (JE 24, S 8)
27. Both Case and Allen are Caucasian males. (S 8)
28. Dale Niles (hereinafter "Niles") worked at Concern as a full-time counselor from February 1999 until 2005. (NT 1 113)
29. As a shift supervisor, Niles called supplemental counselors into work. (NT 1 114-115)
30. Niles testified that Wilson was available for work 70-75% of the time when he called him. (NT 1 116)
31. Niles thought Wilson was a very effective counselor, especially when dealing with disciplinary matters. (NT 1 117-119)
32. Cathleen Marengo (hereinafter "Marengo") was a senior full-time counselor at Concern from June 21, 2000 until May 6, 2001. (NT 1 14)
33. Marengo testified that when she would call Wilson for work assignments he was available 70-75% of the time. (NT 1 148)