

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

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Christy Williams,)	HRC Case No. 9701008001
)	
Charging Party,)	
)	
versus)	<i>Hearing Examiner's</i>
)	<i>Decision</i>
Richard Triepke dba The Trading Post,)	
)	
Respondent.)	

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I. Procedure and Preliminary Matters

Christy Williams ("Williams") filed a verified complaint with the Montana Human Rights Commission on February 3, 1997. She alleged the respondent discriminated against her on the basis of her sex when he subjected her to a hostile and offensive work environment on or about August 22, 1996. On February 20, 1998, the Commission certified her complaint for a contested case hearing. They appointed the undersigned as hearing examiner.

This contested case hearing began on June 22, 1998, in Deer Lodge, Powell County, Montana, in the District Court Courtroom, County Courthouse. Williams was present with her attorney, Jack Morris. Respondent Richard Triepke ("Triepke") was present with his attorney, John McKeon. Before hearing began, the parties agreed regarding the contested case. Williams and Triepke each were sworn and testified. Hearing concluded on June 22, 1998, and the record closed.

II. Issues

A full statement of issues appears in the final prehearing order, as follows:

1. Did Triepke sexually assault Williams at work on August 22, 1996?
2. If so, what harm did Williams suffer?
3. What effect does the guilty plea have here?
4. If Triepke sexually assaulted Williams at work on August 22, 1996, does that establish sexual harassment, a genre of discrimination based on sex?
5. If Triepke illegally discriminated against Williams in employment, what order is necessary to remedy her harm and eliminate the risk of further discrimination?

1 **III. Findings of Fact**

2 1. Triepke, dba The Trading Post, employed Williams as a bookkeeper starting in June
3 1994. Admitted Facts.

4 2. On August 23, 1996, Williams, who was then 16 years old, filed a criminal
5 complaint in Powell County against Triepke for sexual assault, allegedly occurring on August
6 22, 1996. On August 28, 1996, Triepke was charged in Powell County Justice Court with
7 Sexual Assault (misdemeanor) under §45-5-502(1) MCA. On August 29, 1996, Triepke
8 entered a guilty plea to the charge. Admitted Facts.

9 3. Williams left Triepke's employment on August 22, 1996. Admitted Facts.

10 4. Williams' allegations that Triepke discriminated against her on the basis of her sex
11 when he subjected her to a hostile and offensive work environment on or about August 22,
12 1996 are true. Triepke closed and sold the business not long after the discriminatory acts.

13 Testimony of Williams and Triepke.

14 5. Williams and Triepke agree, after consultation with counsel and negotiations, that
15 an award of \$25,000.00 will compensate her for her emotional distress, and that no additional
16 monetary award is necessary. Williams and Triepke agree, after consultation with counsel and
17 negotiations, that this award does not duplicate the restitution ordered by the Powell County
18 Justice Court in Triepke's criminal case, and that payment under either order will not be
19 payment under the other order. Testimony of Williams and Triepke.

20 6. The sum of \$25,000.00 will compensate Williams for her emotional distress. No
21 additional monetary award is necessary. This award does not duplicate the restitution ordered
22 by the Powell County Justice Court in Triepke's criminal case. Payment under either order
23 will not be payment under the other order.

24 7. Triepke is currently unemployed and is not involved in the operation of any
25 business. Affirmative relief is necessary, to guard against the risk of further illegal
26 discrimination should Triepke in the future become an employer again.

27 **IV. Conclusions of Law**

28 1. Triepke sexually assaulted Williams at work on August 22, 1996.

1 2. The harm suffered was emotional distress, requiring counseling. Loss of her job
2 did not result in a compensable wage loss because Triepke closed and sold the business.
3 Counseling expenses are Triepke's responsibility according to the Powell County Justice Court
4 criminal judgment.

5 3. Triepke admitted the illegal discrimination. The effect of his prior guilty plea is
6 irrelevant.

7 4. Triepke's sexual assault of Williams at work on August 22, 1996, and the admitted
8 prior acts as alleged in the complaint, constitute sexual harassment, a genre of discrimination
9 based on sex.

10 5. Triepke illegally discriminated against Williams in employment. A monetary award
11 of \$25,000.00 for emotional distress, with affirmative relief applicable should Triepke again
12 become an employer, is necessary to remedy Williams' harm and eliminate the risk of further
13 discrimination.

14 **V. Proposed Commission Judgment and Final Order**

15 1. Judgment is found in favor of Christy Williams and against Richard Triepke, on the
16 complaint that Triepke discriminated against Williams on the basis of her sex when he
17 subjected her to a hostile and offensive work environment on or about August 22, 1996.

18 2. Triepke is ordered to pay to Williams the sum of \$25,000.00, with legal interest
19 from the date of entry of the Commission's final order until paid. Payment of this judgment is
20 due and owing on the date of entry. Payment on this judgment does not duplicate or satisfy the
21 restitution requirements imposed by Powell County regarding Triepke's misdemeanor sexual
22 assault (August 29, 1996). Payment or satisfaction of the restitution requirements likewise
23 does not duplicate or satisfy this judgment.

24 3. Triepke is further ordered, if anytime within three (3) years of the date of entry of
25 the Commission's final order, he is either employed or involved in the operation of any
26 business or entity, to give immediate written notice to Williams' attorney and to the Human
27 Rights Bureau Staff (attention: Ken Coman, P.O. Box 1728, Department of Labor and
28 Industry, Human Rights Bureau, Helena, Montana 59624.

1 4. Triepke is further ordered, after giving such notice as paragraph 3 requires, to
2 comply with any requirements placed upon him by the Human Rights Bureau staff regarding
3 undertaking and completing any training, obtaining and completing any counseling or
4 otherwise doing or refraining from doing any acts required or prohibited by the Human Rights
5 Bureau staff as conditions of Triepke continuing in his employment or involvement in the
6 operation of any business or entity.

7 5. Triepke is further ordered not to violate any of the rights, as protected under the
8 Montana Human Rights Act, of employees he may in the future have.

9 Dated: June 24, 1998.

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11 Terry Spear, Hearing Examiner for the
12 Montana Human Rights Commission
13 Hearings Bureau, Montana Department of Labor and Industry
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