

**BEFORE THE MONTANA DEPARTMENT
OF LABOR AND INDUSTRY**

Erik Scott Olsen,)	
Charging Party,)	HRC Case No. 0035010163
vs.)	<i>Final Agency Decision</i>
City of Bozeman,)	
Respondent.)	

I. Introduction

Erik Scott Olsen, the charging party, filed a disability discrimination complaint with the department’s Human Rights Bureau against the City of Bozeman after a Bozeman police officer arrested him pursuant to a valid warrant on April 30, 2003. Olsen alleged that the City (acting through its officer) failed to accommodate his disabilities during the arrest and detention. Olsen proved he had a disability. He did not prove that the arresting officer failed reasonably to ascertain a verifiable disability. As a result, Olsen did not prove that the City had any reason to accommodate him, and the complaint is dismissed.

II. Procedure and Preliminary Matters

Olsen filed a formal complaint with the Department on July 18, 2002, complaining that the City discriminated against him on the basis of disability (heart condition and kidney disease) when it arrested him on or about April 30, 2002, and failed to accommodate his disabilities during the arrest and incarceration. On February 25, 2003, the department gave notice of hearing on Olsen’s complaint and appointed Terry Spear as hearing examiner.

The hearing proceeded on June 26, 2003, in Bozeman, Montana. Olsen attended with his attorneys, Philip A. Hohenlohe and Donald Ford Jones, Montana Advocacy Program. The City attended through its designated representative, Mark Tymrak, Chief of the Bozeman Department of Public Safety, with its attorney, Barry O’Connell, Moore, O’Connell & Refling.

Charging party Olsen, Susan Ashford, Dr. John E. Galt, designated representative Tymrak, Lou Reiter and arresting Bozeman Police Officer James Veltkamp testified. During the hearing, the hearing examiner accepted the deposition testimony of Dr. James Knotsman as part of the evidentiary record. The exhibit and file dockets accompany this decision. Olsen filed the final post-hearing brief on September 3, 2003, and the case was submitted for decision.

III. Issues

The issue in this case is whether Olsen was disabled within the context of applicable Montana law and, if so, whether the City discriminated against him by failing reasonably to ascertain a verifiable disability, thereby failing to take appropriate action to accommodate his disability. A full statement of the issues appears in the final prehearing order.

IV. Findings of Fact

1. At the pertinent times, Erik Scott Olsen was a 51-year-old man living in Bozeman, Montana. Since the age of 44, Olsen had a medical condition (end-stage kidney failure) that required him to receive hemodialysis treatment three times a week. Olsen's kidney's could not perform their normal primary function of ridding the body of waste matter. He required hemodialysis treatment three times a week to stay alive. The hemodialysis filtered the waste materials out of the blood. During dialysis, a significant amount of fluid (up to ten pounds) was removed from his body and then returned. The rapid loss of fluid caused a drop in blood pressure.

2. Olsen was receiving dialysis each Monday, Wednesday, and Friday from about 10:30 a.m. to 3:30 p.m. During his treatments, Olsen was confined to a chair; he was not free to stand up or walk around. For each treatment, the clinical staff inserted two large needles into a blood vessel in Olsen's left arm. The needles connected to tubes, in turn attached to the dialysis machine. Olsen could not safely move his left arm during dialysis because of the risk of the needles puncturing the walls of the vessel.

3. During dialysis Olsen often did not feel well. Although Olsen sometimes was able to do some work on his laptop, he was limited to the use of one hand, so he was never very productive. On those occasions when he did not feel well, he tried to nap. Generally, he spent his time on dialysis watching television. On many occasions, Olsen was placed in a reclining position during dialysis because of low blood pressure caused by the rapid decrease in fluid volume.

4. Because of his dialysis, Olsen was unable to work at any job that required him to work regular business hours. He generally worked at his real estate job on Tuesday, Thursday, Saturday and Sunday. Sometimes the day after dialysis he was still weak and unable to maintain a normal activity level.

5. Olsen was not very productive in his real estate work. He formerly did jobs that required international travel, and jobs in farming and construction. With his end-stage kidney disease and attendant dialysis, he

could no longer perform such jobs. He chose the real estate job to set his own hours and to avoid work which was too physically demanding. Even in his current work, he lost clients and work because of the limitations dialysis caused. Indeed, most people on dialysis did not work at all.

6. Because of his dialysis schedule, Olsen's ability to travel was also significantly restricted. If he was away for any length of time, he had to make arrangements to dialyze wherever he was going, which took time and preparation. He could not travel unless the destination had an available dialysis unit. Because of his dialysis, he was often unable to attend events at his daughter's school and similar activities. In fact, Olsen planned his life around his dialysis schedule. For example, after his heart surgery (discussed in later findings), Olsen had hoped to stay longer in California, but had to come home because he could not find a place to dialyze.

7. After dialysis, Olsen generally suffered from low blood pressure that could last into the next day. As a result, he felt faint after every dialysis treatment. At least once a month, Olsen lost his vision and nearly passed out. For example, on Wednesday night before the hearing, after dialysis that day, Olsen lost his vision and nearly fainted after standing up. Sometimes he actually would faint and fall to the ground. Because of the faintness and the fainting, he generally went home after dialysis and simply sat on the couch; sometimes he had to go to sleep. After dialysis, Olsen sometimes was so "wiped out" that he could not walk, and was limited in his ability to work and perform any normal activities like cooking dinner.

8. Olsen liked to take walks with his close friend and companion, Susan Ashford. Even when he was able to walk with Ashford following dialysis, he frequently had to stop and sit down because he felt light-headed. Olsen's reduced ability to walk after dialysis resulted from the loss of fluid and low blood pressure. Olsen and Ashford tried to go out and engage in social activities, but Olsen could not dance more than one dance without feeling he might pass out.

9. Olsen was significantly restricted in his activities after dialysis, because of the fatigue that resulted. His physician compared being on the dialysis machine to "going out and playing a game of football." Olsen was sometimes able to go skiing on Saturdays and Sundays if he was feeling well, but he still had to take it easy and take many breaks. He was not able to ski on days that he has dialysis.

10. Two years after starting dialysis, Olsen defaulted on a student loan. His doctor certified that he was permanently disabled. Olsen received a letter dated August 10, 2000, from the U.S. Department of Education, Office of

Postsecondary Education notifying him that pursuant to the Higher Education Act of 1965, providing for cancellation of student loans if the borrower becomes “permanently and totally disabled,” 20 U.S.C. § 1087(a), the balance of his loan was cancelled. The Office of Postsecondary Education regulations defined “totally and permanently disabled” as “the condition of an individual who is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death.” 34 C.F.R. §§ 674.51(s) and 682.200(b).

11. In order to receive dialysis, patients such as Olsen had to have a vascular access through which blood could be drawn off and returned in high volumes. To create that vascular access, surgeon John E. Galt, M.D., created an arteriovenous fistula on Olsen’s left arm by attaching an artery to a vein. The arterial blood flow through the vein caused enlargement of the vein, providing vascular access for the large needles through which Olsen’s blood traveled from his body into the hemodialysis apparatus and then back into his body. The enlarged vein close to the skin was patently obvious, appearing as a huge distended blood vessel that traveled up the left arm from the wrist, over the inner aspects of the forearm, elbow joint and upper arm to the shoulder.

12. If the fistula failed, Olsen needed another vascular access to allow further hemodialysis. There were only a certain number of sites on the human body where fistulas could be created. Lack of proper vascular access through a fistula was life-threatening. Inability to develop another vascular access would have resulted in Olsen’s deterioration and eventual death.

13. Because the fistula was superficial (immediately below the skin), it was susceptible to two kinds of injuries. First and most important, if it was constricted, clotting could occur. Clotting could have resulted in failure of the fistula due to the blockage and also in the migration of clots to other parts of the circulatory system, causing occlusions of blood flow in vital organs, such as the lungs and the brain. Second and less likely, trauma to the relatively unprotected fistula could have ruptured it, causing extensive blood loss that, without immediate medical attention, could have resulted in Olsen’s death. Olsen received and followed strict medical directions to avoid constriction of the fistula and to protect it from external trauma.

14. In April 2002, Olsen traveled to Stanford, California and had open-heart surgery on April 10, 2002, to replace a valve in his heart. The surgery required the surgeons to cut through Olsen’s sternum leaving a very visible ten-inch scar on his chest. As of April 30, 2002, Olsen still had additional limitations (beyond those caused by his kidney failure and dialysis) because he was recuperating from the surgery. He still had severe pain (which he

attributed to the broken sternum) for which he was taking pain medication. He had lost weight and was very weak. He had trouble walking and moving about and was unable to lift more than five pounds.

15. The post-surgical directions Olsen received prohibited carrying groceries, vacuuming, mowing the lawn and walking a dog on a leash for six weeks. Olsen also was to avoid, for at least six weeks, using his arms to push or pull himself up from his bed, and all other pushing, pulling, or twisting movements. He was to avoid activities such as golf, tennis, bowling, vigorous cycling, swimming, diving and heavy gardening for at least three months and not resume them without first checking with his doctor. He was not permitted to drive for four to six weeks. His restrictions were temporary.

16. On the evening of April 30, 2002, at around 6:15 p.m. in Bozeman, Montana, Olsen was driving his truck (a pick-up) south down 7th Street, in violation of his post-surgical directions. Olsen had started driving, despite his restrictions, because he decided that he needed to drive himself to dialysis in case Ashford or other friends were unavailable.

17. Officer James Veltkamp of the Bozeman Police Department was on routine patrol in a marked police car. He stopped Olsen for a traffic violation.

18. Veltkamp approached Olsen and obtained his driver's license. Veltkamp returned to his car and called Olsen's information in to dispatch. Dispatch informed Veltkamp that there was a warrant for Olsen's arrest.

19. Veltkamp waited while dispatch "confirmed" the warrant, meaning dispatch had someone view the hard copy of the warrant. The hard copy of the warrant indicated that it was issued by the Bozeman Municipal Court based on Olsen's alleged failure to appear and failure to comply with a court order in a case involving Olsen's alleged failure to license a dog or cat.

20. Veltkamp knew that the warrant had been issued by the Bozeman Municipal Court, which did not handle felonies. Veltkamp was aware that the warrant was for contempt of court. Veltkamp had a duty to arrest Olsen once he had confirmed that the Municipal Court had issued a valid arrest warrant on Olsen.

21. After the warrant was confirmed, Veltkamp returned to Olsen's vehicle to arrest him, instructing Olsen to get out of the truck. At that time, there were three Bozeman police officers on duty, including Veltkamp. The other two on-duty officers were responding to a domestic violence call at the time Veltkamp stopped Olsen.

22. Olsen did not exhibit any significant limitations upon his movement when exiting his truck, nor did he give any indication that he was in pain. Veltkamp told Olsen he was under arrest. Olsen expressed surprise and disbelief.

23. Olsen was wearing a jacket over a long-sleeved shirt. He showed Veltkamp the obvious fistula on his wrist. He did not push the jacket and shirt up his arm to reveal the extent of the distended vessel running up his arm from his wrist. Olsen told Veltkamp that rupturing the fistula could be deadly. He also mentioned his recent heart surgery.

24. Fistulas occur in approximately one person per thousand in the general populace. A reasonably well informed person without medical expertise would not know what a fistula was or what medical condition would require the creation of a fistula.

25. Veltkamp did not know what a fistula was or why it was a necessity for Olsen. Veltkamp reasonably concluded that the area of Olsen's concern was his wrist, where the fistula was visible below the ends of his shirt and jacket sleeves.

26. In police work, the standard in effecting an arrest was for the arrestee be handcuffed behind his back. The primary reason for this standard was safety—both officer safety and public safety. Until the arrestee was under control in custody, an arrest was a high risk procedure. The officer typically had limited information about the arrestee. Injury to the officer, the public or the arrestee was a significant risk until custody and control were completely established. Handcuffing the arrestee's hands in front of his body was less safe, because the arrestee had more freedom of use of his hands. There were several different ways to attach the handcuffs behind the arrestee's back, with the arms positioned differently in each.

27. Veltkamp followed the normal arrest procedure and handcuffed Olsen behind his back. He used the "stacking" technique, with the wrists on top of each other and Olsen's palms faced away from his back. This technique allowed Veltkamp to fasten the left cuff above Olsen's left wrist, over his jacket and shirt and away from the obvious fistula at the wrist. Veltkamp did so to avoid any contact between the cuff and the visible fistula. While Veltkamp was handcuffing, Olsen said that he had recently had heart surgery. Veltkamp did not know, nor did Olsen tell him, that the heart surgery created an undue risk of harm in handcuffing Olsen's hands behind his back. Veltkamp completed the handcuffing of Olsen without incident and placed him in the back of the police vehicle. Olsen was not visibly in distress, nor was he complaining of physical problems when Veltkamp placed him in the vehicle.

28. Veltkamp's conduct in arresting and restraining Olsen was reasonable and proper, and consistent with the City's policy and practice for an arrest. Veltkamp's visual inspection of Olsen's swollen wrist and his understanding of Olsen's comments about medical problems supported his decisions regarding his restraint and detention of Olsen. Veltkamp did not fail reasonably to ascertain a verifiable disability that would have required him to modify his course of conduct in restraining and detaining Olsen.

29. Veltkamp could have handcuffed Olsen's hands in front of his body. Veltkamp chose not to do so because he believed that handcuffing Olsen with the stacking technique best avoided any risk of injury to the fistula.

30. After Olsen and Veltkamp got in the police car, Veltkamp again called dispatch to confirm the warrant and verify that he had the right person in custody. After Olsen and Veltkamp got in the police car, Olsen did not make any statements to Veltkamp regarding pain, physical harm or fear of harm of any kind. Olsen did not complain of pain or physical problems at any time after Veltkamp placed him in the vehicle, up to and including the time when Veltkamp turned Olsen's custody over to officers at the Gallatin County Detention Facility.

31. Veltkamp drove Olsen to the detention center. During the drive, Veltkamp acknowledged that he had seen the handicapped parking sticker in Olsen's vehicle. The sticker was on the floor.

32. Veltkamp's police car was equipped with a partition made of metal and reinforced plexiglass separating the front and rear compartments. This partition created a complete enclosure. Olsen could not have inserted his hand or arm into the front compartment, even without the handcuffs.

33. In Veltkamp's police car, Olsen could not unlock the back doors from inside the rear compartment.

34. At all times during his arrest and transportation to the detention facility, Olsen was cooperative. He did not try to resist arrest or flee. He was not violent. Immediately after handcuffing Olsen, Veltkamp searched him and found no weapons.

35. At all times during his arrest and detention of Olsen, Veltkamp was acting on behalf of the City of Bozeman and was acting within the scope of his employment or duties.

36. At the detention facility, Olsen was allowed to call for bond, and he was later released. Olsen suffered no injury during the course of his arrest, his

subsequent transportation to the Gallatin County Detention Center or his stay there until his subsequent release on bond.

V. Opinion¹

Montana law prohibits both denial of government services to an individual because of disability, Mont. Code Ann. § 49-2-308(1)(a), and discrimination based on disability in the performance of all governmental services, Mont. Code Ann. § 49-3-205(1). The City raised the issue of whether Montana law required law enforcement to consider the need for accommodation due to disability during the course of making an arrest. The hearing examiner refused to rule, as a matter of law, that there could never be such a requirement. With all the evidence of record, Olsen did establish his disability; he failed to prove that Veltkamp had enough information about that disability to require any inquiry about accommodation. Therefore, the facts of this case do not require a ruling about an arrestee's right to an accommodation during the arrest process.

A. Disability

A disability is: (1) an impairment that substantially limits one or more major life activities; (2) a record of such an impairment; or (3) a condition regarded as such an impairment. Mont. Code Ann. § 49-2-101(19)(a).

Work is a major life activity. *Martinell v. Montana Power Co.* (1994), 268 Mont. 292, 886 P.2d 421, 428. Olsen suffers from a condition (end-stage kidney disease) that precludes him from working any job that requires regular business hours as well as any job that has any physical demands beyond essentially sedentary work. This clearly “eliminates his ability to perform a class of jobs.” *See, Butterfield v. Sidney Public Schools*, 2001 MT 177, ¶ 24, 306 Mont. 179, 32 P.3d 1243. Olsen also is substantially limited in a number of other major life activities, as the findings demonstrate. In addition, Olsen clearly has a record of such an impairment, from the disability waiver of his student loan.

On the other hand, the temporary constraints resulting from his heart surgery do not constitute a disability. Federal regulations note that temporary, non-chronic limitations “are *usually* not disabilities.” 29 C.F.R., Part 1630 App., §1630.2(j) (emphasis added). Many kinds of temporary conditions, ranging from pregnancy-related limitations to carpal tunnel syndrome, are not

¹ Statements of fact in this opinion are hereby incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P.2d 661.

disabilities for purposes of discrimination laws. *Heintzelman v. Runyon* (8th Cir. 1997), 120 F.3d 143; *Robinson v. Neodata Services* (8th Cir. 1996), 94 F.3d 499; *Sanders v. Arneson Products* (9th Cir. 1996), 91 F.3d 1351; *Roush v. Weastec, Inc.* (6th Cir. 1996), 96 F.3d 840; *Rogers v. Inter. Mar. Term.* (5th Cir. 1996), 87 F.3d 755; *McDonald v. Commonwealth of Pennsylvania* (3rd Cir. 1995), 62 F.3d 92; *Hughes v. Bedsole* (4th Cir. 1995), 48 F.3d 1376, *cert.den.*, 516 U.S. 870; *Evans v. City of Dallas* (5th Cir. 1988), 861 F.2d 846; *Grimard v. Carlston* (1st Cir. 1978), 567 F.2d 1171; *Scott v. Flaghouse, Inc.* (S.D. N.Y. 1997), 980 F.Supp. 731; *Wallace v. Trumbull Memorial Hospital* (N.D. Ohio 1997), 970 F.Supp. 618; *Harris v. United Airlines, Inc.* (N. D. Ill. 1996), 956 F.Supp. 768; *Gerdes v. Swift-Eckrich* (N.D. Iowa 1996), 949 F.Supp. 1386; *Wilmarth v. City of Santa Rosa* (N.D. Cal. 1996), 945 F.Supp. 1271; *Johnson v. A.P. Products* (S.D. N.Y. 1996), 934 F.Supp. 628; *Mowat-Chesney v. Children's Hospital* (D. Colo. 1996), 917 F.Supp. 746; *McCullough v. Atlanta Beverage Co.* (N.D. Ga. 1996), 929 F.Supp. 1489; *Muller v. Auto. Club of So. Cal.* (S.D. Cal. 1995), 897 F.Supp. 1289; *Rakestraw v. Carpenter Co.* (N.D. Miss. 1995), 898 F.Supp. 386; *Oswalt v. Sara Lee Corp.* (N.D. Miss. 1995), 889 F.Supp. 253; *Presutti v. Felton Brush, Inc.* (D. N.H. 1995), 927 F.Supp. 545; *Blanton v. Winston Prtg Co.* (M.D. N.C. 1994), 868 F.Supp. 804; *Sutton v. New Mexico Dept. of Children* (D. N.M. 1996), 922 F.Supp. 516; *Paegle v. Department of Interior* (D. D.C. 1993), 813 F.Supp. 61; *McKay v. Toyota Mfg., USA, Inc.* (E.D. Ky. 1995), 878 F.Supp. 1012; *Stubler v. Runyon* (W.D. Mo. 1994), 892 F.Supp. 228, *aff.* (9th Cir. 1995), 56 F.3d 69. Each case turns on its own facts.

Montana follows federal interpretations (and decisions from other jurisdictions) that temporary impairment **can** be a substantial limitation to working when it interferes for long enough time so that the worker has trouble securing, retaining or advancing in employment. *Reeves v. Dairy Queen, Inc.*, 1998 MT 13, ¶¶ 29-29, 287 Mont. 196, 953 P.2d 703; *Martinell, op. cit.* The Montana Supreme Court in *Martinell* approved an analysis that “transitory and insubstantial” conditions (like influenza or a cold) were not disabilities. *Id. at* 429-30. Although Olsen’s post-surgical limitations were more substantial than the flu or a cold, his recovery period will be far shorter than the two years of limitations that cost Martinell potential promotions and ultimately her job. *Id. at* 430. Limitations during post-surgical recovery are not ordinarily a disability under Montana law, even when they last for a period of months. *Adamson v. Pondera County* (Human Rights Commission 1999), Case Nos. 9501006838 & 9601007417.

Montana looks at the facts of each particular case to address disability questions under the state’s laws. *E.g., Butterfield, op. cit.; Adamson, supra.* In *Butterfield*, the Supreme Court relied upon the underlying facts of limitations

in a broad category of work and reinstated a department decision finding disability, which the Commission had overturned. In *Adamson*, the Commission adopted the hearing examiner's proposed decision finding no disability, based upon the temporary nature of the limitations. Both cases illustrate that a claimant must prove substantial limitation by both severity and duration, and that the sufficiency of that proof is a fact question. Under these facts, the post-surgical restrictions on Olsen's activities after his heart surgery were not a disability for purposes of Montana discrimination law.

B. Accommodation

Dr. Galt testified that "a handcuff could very easily stop the blood flow to the fistula and result in it clotting off." Galt 104:12-14. Therefore, handcuffing Olsen "would be very risky, and [should] be avoided if at all possible." *Id.* at 1-4:3-9. Handcuffing for only 10 or 15 minutes could present a danger of clotting; in fact, a fistula should not be constricted for even 30 seconds at a time. *Id.* at 104:15-21. The risk might be even more severe if the handcuff were placed several inches up from Olsen's wrist, because the fistula is more enlarged and easily compressible at that point. *Id.* at 104:22-105:6. The risk also would not be eliminated by placing the handcuff on loosely. *Id.* at 105:7-12. As long as the handcuffs are on tightly enough so they could not be slipped off easily, they could cause the fistula to clot off. Knostman 37:16-38:1.

Although Dr. Galt testified to these medical opinions, Olsen's testimony that he gave Veltkamp these details was not credible. Olsen attempted to shape his testimony to match the police video of the stop and the arrest. The hearing examiner did not believe him. While he was on camera, all he did was show Veltkamp his wrist, without showing the continuation of the distended blood vessel up his arm. It is very unlikely that, off camera, he removed his jacket and then either removed his shirt or gingerly slid the sleeve up his left arm to display the rest of the distended blood vessel. It is inconsistent with his own testimony that he would shove the combined sleeves of his jacket and shirt up his left arm to reveal that vessel.

While he was in the police car (and being audiotaped), Olsen made no complaints or comments about either his chest or his fistula. It is incredible that he made all of the comments to which he testified, and somehow managed to show Veltkamp the way his fistula ran up his arm before entering the vehicle; then made no further comment regarding any of these problems while he was in the police car. Olsen asked about his handicap sticker during the ride to the Justice Center. He discussed his incredulity about the arrest warrant. He questioned whether an arrest warrant could be proper without a prior notice, which he denied receiving. He asked if Veltkamp could stop at

his home to pick up his checkbook. When Veltkamp pulled the vehicle inside the facility, Olsen asked if he could “at least” leave the door open to alleviate his claustrophobia, and thanked him for doing so. Yet Olsen made no reference to the matters (the fistula and his chest surgery) about which he testified he discussed in great detail with Veltkamp during the arrest. Veltkamp’s testimony about the far more limited comments made by Olsen during the arrest was much more consistent with the observable conduct and audible comments of Olsen.

If a duty of accommodation does arise during an arrest, it could not extend beyond the obligation first to ascertain a verifiable disability and if so then to determine whether any accommodation would be reasonable in the context of the public safety and officer safety concerns incident upon arrests. If there is any such duty under Montana law, Olsen failed to prove that Veltkamp violated it by failing to ascertain a verifiable disability. Absent proof of sufficient notice to require further action to ascertain the disability, no duty to take that further action could arise. Since Olsen’s testimony that he told Veltkamp about the risks attendant upon handcuffing (even up the arm) was not credible, Veltkamp’s conduct was reasonable given his limited knowledge of Olsen’s conditions, and Veltkamp had no legal duty to make further inquiry. Since Olsen’s post-surgical condition was not a disability, no duty could arise with regard to that condition under any circumstances. Therefore, Olsen has failed to prove his discrimination claims.

VI. Conclusions of Law

1. The Department has jurisdiction over Erik Scott Olsen’s complaint of discrimination by the City of Bozeman, pursuant to the provisions of both Mont. Code Ann. § 49-2-509(7) and Mont. Code Ann. § 49-3-315.

2. The City of Bozeman did not illegally discriminate against Erik Scott Olsen during his arrest and detention on April 30, 2002, pursuant to either Mont. Code Ann. § 49-2-308(1)(a) or Mont. Code Ann. § 49-3-205(1). Therefore, the department must dismiss the complaint, in accordance with Mont. Code Ann. § 49-2-507.

VII. Order

1. The department grants judgment against the charging party, **Erik Scott Olsen**, and in favor of the respondent, the **City of Bozeman**, on Olsen’s charges that it discriminated against him on the basis of disability (heart condition and kidney disease) when it arrested him on or about April 30, 2002, and failed to accommodate his disabilities during his arrest and detention.

2. The department dismisses the complaint.

Dated: September 19, 2003

/s/ TERRY SPEAR
Terry Spear, Hearing Examiner
Montana Department of Labor and Industry

ErikScottOlsenFAD_tsp