

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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ED KINNICK,	)	
	)	
Charging Party,	)	Cause No. 0041010701
	)	Cause No. 0049010702
	)	
vs.	)	<b>ORDER SUSTAINING</b>
	)	<b>CHARGING PARTY'S</b>
	)	<b>OBJECTION</b>
PARK COUNTY and SHERIFF CLARK	)	
CARPENTER,	)	
	)	
Respondent.	)	

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On or about April 20, 2004, the Human Rights Bureau issued two separate Final Investigative Reports and corresponding Notices of Dismissal and Notices of Right to Sue in the above-captioned matters. Charging Party, Ed Kinnick, filed objections with the Montana Human Rights Commission (Commission) and requested oral argument. Kevin S. Brown entered an appearance for Charging Party, Ed Kinnick. Richard Larson entered an appearance for Respondents, Park County and Sheriff Clark Carpenter. The Commission considered the matter on July 9, 2004. The parties submitted the same briefs for both cases and did not object to the Commission's consolidation of the proceedings.

In the Final Investigative Report (FIR), the Human Rights Bureau Investigator determined that a preponderance of the evidence did not support Kinnick's assertion that he had been discriminated on the basis of political belief by his employer, Park County and Sheriff Clark Carpenter.

After careful and due consideration, the Commission sustains the Charging Party's objection in this matter. The Commission finds the determination of the Human Rights Bureau is not supported by the record and, therefore, there was an abuse of discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*

In reaching its decision, the Commission initially notes an error in the Final Investigative Report. The Sheriff's first name is "Clark" not "Robert" Carpenter. Additionally, the Commission's notes that as an individual, the sheriff, cannot be considered a named respondent under Montana's Governmental Code of Fair Practices as alleged by Charging Party, Ed Kinnick. *See Mont. Code Ann. § 49-3- 101, et. seq.* As for the remaining claim, the Commission concludes the Human Rights Bureau's Final Investigative Report does not contain sufficient information to fairly decide this matter.

IT IS HEREBY ORDERED, that the Commission sustains Charging Party's objection and the matter is reopened. Since Charging Party filed his complaint over 120 days prior to this order, the matter is remanded to the Department of Labor and Industry's Hearings Bureau to notice it for hearing pursuant to Admin. R. Mont. 24.9.1714(4).

Dated this \_\_\_\_\_ day of July 2004.

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Mr. Gary Hindoien, Chair  
Montana Human Rights Commission

## **CERTIFICATE OF SERVICE**

The undersign employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on May \_\_\_\_ 2004.

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LIVINGSTON MT 59047

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Montana Human Rights Bureau