

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

KAY WIMAN,)	
)	
Charging Party)	Cause No. 0031010546
)	
vs.)	ORDER DENYING
)	RESPONDENT'S MOTION
)	TO STRIKE CHARGING
)	PARTY'S BRIEF AND
)	AFFIRMING NOTICE OF
)	DISMISSAL
)	
FALLON COUNTY,)	
)	
Respondent.)	

On December 5, 2003, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to File Civil Action in the above-captioned matter. On December 22, 2003, Kay Wiman (Charging Party) filed an objection to the Notice of Dismissal with the Montana Human Rights Commission (Commission). Oral argument was not requested and the matter came before the Commission on March 25, 2004.

As an initial procedural matter, Fallon County (Respondent) submitted a motion to strike the brief submitted by the Charging Party, who appears *pro se* in this matter. Respondent asserted that Charging Party's brief contained argument on matters not present in Case No. 0031010546, and pertaining to matters in Case No. 0031010551, which was not appealed. Charging Party asserted that she believed that the subject matter of the two cases had been combined in the Final Investigative Report in Case No. 0031010546.

After due and careful consideration, the Commission concluded Respondent would not be prejudiced by allowing the Charging Party's brief to remain in the record, and the Commission voted to deny Respondent's Motion to Strike.

On appeal to the Commission, Charging Party apparently asserts the investigator failed to take into account various matters that Charging Party asserts are evidence of Charging Party's claim. Charging Party essentially re-argued her case without addressing the standard of review and merely by pointing to statements and events that she claims show unlawful discrimination. In response, Respondent argues an "abuse of discretion" standard. Respondent alleges that the Final Investigative Report is supported by substantial credible evidence relied upon by the investigator, and pointed to various facts in the record to support that assertion.

The Commission concludes the findings of the Human Rights Bureau are supported by the record and, therefore, there was no abuse of discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*.

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) and Admin. R. Mont. 24.9.1714(5)*. If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Respondent's motion to strike the Charging Party's brief is DENIED. Charging Party's objection to the Final Investigative Report is overruled and the notice of dismissal is AFFIRMED.

Dated this _____ day of March, 2004.

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 March __ , 2004.

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Montana Human Rights Bureau