

**BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA**

DENISE RUTHERFORD,

Charging Party,

-v-

TETON COUNTY SHERIFF'S OFFICE,

Respondent.

Cause No. 0045011151

**ORDER SUSTAINING
OBJECTION**

On February 14, 2005, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. Charging Party, Denise Rutherford (Rutherford), filed objections with the Montana Human Rights Commission (Commission). This matter was initially set for hearing on March 14, 2005. Following a request by Rutherford to continue, the Commission considered the matter on May 17, 2005.

In the Final Investigative Report (FIR), the Human Rights Bureau Investigator determined a preponderance of the evidence did not support Rutherford's assertion that the Respondent Teton County Sheriff's Office had unlawfully discriminated because of race.

After careful and due consideration, the Commission concluded the Human Rights Bureau abused its discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*. In discussion, the Commission noted that the investigation was lacking in comparative data. Charging Party Rutherford presented evidence during the investigation of discriminatory treatment. The Commission finds the record lacks

sufficient comparative evidence to establish that Respondent Teton County Sheriff's Office proceeded in a legitimate non-discriminatory manner.

IT IS HEREBY ORDERED, that Charging Party's objection is **sustained**. When the Commission sustains the objections to the dismissal of a complaint, it will reopen the case by remanding it to the department. *Admin. R. Mont. 24.9.1714(4)(b)*. A party may ask a district court to review a decision of the Commission to remand a contested case to the department. *Admin. R. Mont. 24.9.1714(7)*

DATED this ____ day of May 2005.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned 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 ____ 2005.

DENISE RUTHERFORD
PO BOX 28
HEART BUTTE MT 59488

SHERIFF ANDERSON
TETON COUNTY SHERIFFS DEPARTMENT
PO BOX 1349
CHOTEAU MT 59422

ROGER WITT
UGRIN ALEXANDER ZADICK & HIGGINS PC
PO BOX 1746
GREAT FALLS MT 59403-1746

MARIEKE BECK
DEPARTMENT OF LABOR AND INDUSTRY
OFFICE OF LEGAL SERVICES
PO BOX 1728
HELENA MT 59624

Montana Human Rights Bureau