

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

ANTHONY EVANS,

Charging Party,

-v-

MONTANA STATE PRISON,

Respondent.

Case #0085013142

ORDER

Anthony Evans (Evans) filed a complaint with the Department of Labor and Industry (Department) alleging that Montana State Prison (MSP) discriminated against him based on religion in the provision of government services when MSP opened his mail out of his presence, when he was denied employment, and when his grievances were denied. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Evans' allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Evans filed an objection with the Montana Human Rights Commission (Commission). On May 18, 2009, Evans filed a request to extend the time allowed for him to file briefs in support. MSP objected. The Commission considered this case on May 20, 2009.

Regarding Evans' request for an extension of time, the Commission denies the request for lack of showing good cause as required by ARM 24.9.109. Regarding the objection to the dismissal, the Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA.* After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702*. This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Anthony Evans' objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against the Montana State Prison.

DATED this ____ day of May, 2009.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of May, 2009.

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Montana Human Rights Bureau