

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

SHELLEY ANNE TISCHLER,

Charging Party,

-v-

MONTANA WOMEN'S PRISON,

Respondent.

Case #0085013292

ORDER

Shelley Anne Tischler (Tischler) filed a complaint with the Department of Labor and Industry (Department) alleging that Montana Women's Prison (MWP) discriminated against her based on religion in the provision of government services when they failed to transfer her to another institution, denied her access to an attorney, provided inferior medical treatment, and stole her "kites" and grievances. Tischler also asserted MWP retaliated against her. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Tischler's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal. Tischler filed an objection with the Montana Human Rights Commission (Commission).

Tischler requested oral argument on her objection on May 15, 2009. MWP opposed the request. The Commission hereby denies the request for oral argument on the above-entitled matter because Tischler did not make the request in her first brief filed on March 31, 2009. By rule, a request for oral argument must be made in writing at the time of filing the first brief. ARM 24.9.121(3).

The Commission considered Tischler's objection to the dismissal on May 20, 2009. 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 Shelley Anne Tischler's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against the Montana Women's 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