

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MURAT KALINYAPRAK,

Case # 0095013637

Charging Party,

ORDER

-v-

CITY OF POLSON,

Respondent.

Murat Kalinyaprak (Kalinyaprak) filed a complaint with the Department of Labor and Industry (Department) alleging that the City of Polson discriminated against him on the basis of his Turkish national origin and retaliated against him, both in the provision of government services. Kalinyaprak asserted that when he spoke at a City Council meeting against a seasonal couples pass at the golf course, the Mayor treated him improperly by limiting his speaking to three minutes, and not limiting the other speakers. Kalinyaprak believed this event constituted discrimination and retaliation for the earlier human rights complaints he has filed. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Kalinyaprak's allegations of unlawful discrimination or retaliation. The Department issued a Notice of Dismissal. Kalinyaprak filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 17, 2010. Kalinyaprak appeared and argued on his own behalf. John Haffey appeared and argued on behalf of the City of Polson.

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 an abuse of discretion. Therefore, the Commission

sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. See § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that Murat Kalinyaprak's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this ____ day of April 2010.

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 April 2010.

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