

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JOHN KNOWS HIS GUN and DEE
CHANCE WHITE HIP,

Case No's: 0095013679-90

ORDER

Charging Parties,

-v-

STATE OF MONTANA, DEPARTMENT OF
CORRECTIONS, WARDEN MIKE
MAHONEY, CORRECTIONS
CORPORATION OF AMERICA,
CROSSROADS CORRECTIONAL
CENTER, and WARDEN SAM LAW,

Respondents.

John Knows His Gun (Knows His Gun) and Dee Chance White Hip (White Hip) filed a complaint with the Department of Labor and Industry (Department) alleging that the State of Montana, Department of Corrections, Warden Mike Mahoney, Corrections Corporation of America, Crossroads Correctional Center, and Warden Sam Law discriminated against them and other similarly situated individuals on the basis of race and religion and retaliated against them, all in the provision of government services. Knows His Gun and White Hip asserted that Respondents discriminated by initially conducting mass strip searches of inmates attending sweat lodge ceremonies, by subsequently conducting pat down searches, by denying the attendees of the sweat lodge ceremonies a proper advisor or adequate facilities and materials, by failing to offer adequate opportunities for religious exercise, by using racial slurs, and by supplying the inmates an inadequate grievance procedure. They further asserted they

were retaliated against for their opposition to the prison's unlawful discriminatory practices.

Following an informal investigation, the Department determined that a preponderance of the evidence did not support Knows His Gun and White Hip's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Knows His Gun and White Hip filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 28, 2010. Ron Waterman and Julie Johnson appeared on behalf of Knows His Gun and White Hip. Ron Waterman argued on their behalf. Chad Adams appeared and argued on behalf of Corrections Corporation of America, Crossroad Correctional Center, and Warden Sam Law. Beth Baker appeared and argued on behalf of the State of Montana, Department of Corrections, and Warden Mike Mahoney.

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 file a complaint in 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, their claims are 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 John Knows His Gun and Dee Chance White Hip's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against the State of Montana, Department of Corrections, Warden Mike Mahoney, Corrections Corporation of America, Crossroads Correctional Center, and Warden Sam Law.

DATED this ____ day of February 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 February 2010.

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