

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

Robert Renville,

Case # 0105014395

Charging Party,

ORDER

-v-

Montana Department of Justice,

Respondent,

Robert Renville (Renville) filed a complaint with the Human Rights Bureau, Department of Labor and Industry (Department) alleging discrimination on the basis of physical disability by the Montana Department of Justice, Motor Vehicle Division (DMV), in the provision governmental services. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Renville's allegations of discrimination. The Department issued a Notice of Dismissal.

Renville filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 16, 2011. Elizabeth Brenneman appeared and argued on behalf of Renville. Katherine J. Orr appeared and argued on behalf of the Montana Department of Justice. 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 would result in substantial injustice. A key finding of the Human Rights Bureau investigator was that Renville was free to reapply for a licensing examination at any time. Prior to the hearing, Renville submitted a letter issued by the DMV on January 11, 2011, for the Commission's consideration. Following the investigation of his complaint, Renville contacted the DMV to arrange for another driving test. The DMV denied Renville's request and informed Renville that he would

not be eligible for further testing of his driving skills until such time as his "attending physician feels [Renville's] medical condition has improved and the medical condition in question will not have any effect on [Renville's] ability to operate a motor vehicle safely." The Commission finds that Renville's physical disability, which is due to ankylosis spondylitis with cervical flexion-kyphosis, is a condition that is unlikely to improve over time. Therefore, the DMV's January 11, 2011 denial of Renville's application for a driving test indicates that the DMV may have restricted Renville's access to government services on the basis Renville's physical disability. Consequently, the Commission sustains the objection and remands the matter for a hearing before 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 Renville's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this 21st day of March 2011.

L.M. Minich by Tam Neely
L.M. Minich, Chair
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 ^{22nd M} 21st day of March 2011.

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Tam Newby, Legal Secretary
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