

IN THE SUPREME COURT OF THE STATE OF MONTANA
CAUSE NO. DA 19-0068

CARRIE A. PINTAR, d/b/a AMAZING TAXI,
Petitioner/Appellant,

v.

STATE OF MONTANA, MONTANA HUMAN RIGHTS BUREAU, and THE
MONTANA PUBLIC SERVICE COMMISSION,
Respondents/Appellees.

On Appeal from the Montana Sixth Judicial District Court, Park County
Honorable Brenda R. Gilbert, Presiding
Cause No. DV 2018-107

RESPONDENT/APPELLEE
MONTANA PUBLIC SERVICE COMMISSION'S OPENING BRIEF

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STATEMENT OF THE ISSUES

Petitioner/Appellant, Carrie A. Pintar, d/b/a Amazing Taxi (“Pintar”) has identified 14 separate issues for appellate review. Rule 12(1)(b) of the Mont. R. App. Proc., however, encourages parties to limit their statement of the issues to four or fewer. In light of the foregoing, and in the interest of brevity and judicial efficiency, the Commission believes the issues presented can be consolidated and restated as follows:

1. Whether the decision of the Human Rights Bureau (“HRB”) was arbitrary, capricious, unlawful, or not supported by substantial evidence.
2. Whether it was within the discretion of the district court to deny Pintar the opportunity for oral argument.

STATEMENT OF THE CASE

On March 6, 2017, Lyft, Inc., a Delaware corporation (“Lyft”), filed an Application for Certificate of Compliance for Class E Transportation Network Carriers (“Application”) with the Montana Public Service Commission (“Commission”). Lyft’s Application was formally protested by Pintar and for that reason the Commission scheduled, and subsequently held, a hearing on the Application on June 5, 2017, as required by Mont. Code Ann. § 69-12-321(b) (2017).

Following the hearing, in August of 2017, Pintar filed a complaint with the Department of Labor and Industry alleging discrimination by the Commission in governmental services on the basis of sex. *See* Formal Notice of Claim against the State of Mont. and its Political Subdivision, and the Mont. Pub. Serv. Commn, HRB Case No. 0170483 (Aug. 21, 2017).¹ HRB appointed an investigator who concluded that no reasonable cause existed to believe that the Commission had discriminated against Pintar on the basis of sex. Final Investigative Report, HRB Case No. 0170483, 4 (Feb. 1, 2018). A notice of dismissal and notice of right to sue was issued by HRB on February 2, 2018.

On February 8, 2018, Pintar objected to the HRB decision pursuant to Mont. Code Ann. § 49-2-511(1) (2017). The Human Rights Commission (“HRC”) considered the objection on May 18, 2018, and issued its Final Agency Decision on May 29, 2018, overruling Pintar’s objection and affirming the HRB decision.

Thereafter, on June 26, 2018, Pintar filed a Petition for Judicial Review with the Montana Sixth Judicial District Court, Park County (DV 2018-107). Following briefing by the parties, the district court agreed with HRB and HRC and on January 9, 2019, affirmed the decision of HRC. Dist. Ct. R. at 17. Pintar appealed the decision of the district court on January 28, 2019.

¹ References to the district court record are to the case register document number, followed by a page number, where appropriate. All other references to the record are by document name.

In addition to her Petition for Judicial Review, on August 28, 2018, Pintar also filed an independent civil action with the Montana Sixth Judicial District Court, Park County, as contemplated by Mont. Code Ann. § 49-2-511(3)(a). *See Pintar v. State et al.*, Complaint and Demand for Jury Trial, Mont. Sixth Jud. Dist. Ct., Park Cty, Cause No. DV 2018-139 (Aug. 28, 2018).² That statute permits an aggrieved party to challenge a decision of HRC affirming an HRB determination of no reasonable cause to believe the occurrence of unlawful discrimination by way of either (a) a petition for judicial review, or (b) commencement of an independent civil cause of action in district court on the merits of the case. Mont. Code Ann. § 49-2-511(3)(a), (b). Pintar pursued both such remedies and, in her civil complaint, alleged claims identical in substance to those made in her Petition for Judicial Review. She named the Commission and Lyft as defendants in her civil action. Judgment was entered against Pintar on April 30, 2019, on each of her civil claims. She filed a motion to modify the court's judgment, pursuant to Mont. R. Civ. Proc. 60(b) on May 22, 2019. Pintar's Rule 60(b) motion was deemed denied on July 21, 2019, pursuant to Rule 60(c)(1).

² Pintar's separate civil Complaint is not a part of the record here, nor is it under consideration in this matter. However, it is noted to provide the Court with context regarding the scope of judicial process of which Pintar has availed herself.

STATEMENT OF THE FACTS

SB 396 was passed during the 2015 Montana legislative session and subsequently codified in Mont. Code Ann. Title 69, Chapter 12. Under this legislation, registered drivers for a transportation network carrier may use the company's "software or digital network to offer transportation network carrier services." Mont. Code Ann. § 69-12-340(3) (2017). The law was enacted to implement the use of smart phone applications for ride sharing services to allow users to arrange rides with the transportation network carrier's registered drivers.

Under the law, the Commission has been delegated authority to regulate the transportation network carriers, including regulation of a carrier's entry into the market. Mont. Code Ann. § 69-12-340. The Commission is also directed to conduct a hearing whenever a valid protest is filed on a carrier's application. Mont. Code Ann. § 69-12-321(1)(b).

The passage of SB 396 drew sharp criticism from the state's passenger motor carrier sector. Among those carriers critical of the bill was Pintar. Shortly following Lyft's Application, Pintar filed a formal protest thereto on March 21, 2017, and as a result of her protest the Commission scheduled, and subsequently held, a hearing on the Application on June 5, 2017. Final Investigative Report at 1.

As a matter of course in preparation for all Commission hearings, staff prepares a hearing script for use by the presiding Commissioner. The purpose of the script is to assist the chairperson in conducting an orderly and effective hearing. On occasion, staff also makes the hearing script available to parties. Most frequently, this occurs when parties either appear *pro se*, or do not regularly appear before the Commission. The intent is to provide the parties with an objective expectation as to how the hearing will proceed. Staff did just that prior to the Lyft hearing. Recognizing Pintar as a *pro se* protestant, Commission staff emailed the script to be used at the Lyft hearing to both her and counsel for Lyft to assist in preparing for and participating in the hearing. *See* Opening Br. of Pet./Appellant, 5 (Jul. 25, 2019) (discussing Pintar’s receipt of the Lyft hearing script on June 3, 2017).

The hearing was conducted as scheduled. It included live witness testimony and lasted approximately four hours. Final Investigative Report at 2. Because its subject was Lyft’s Application for Class E Certification, the scope of the Commission’s inquiry and decision making authority was limited to whether Lyft met statutory carrier fitness requirements. *See* Mont. Code Ann. § 69-12-323(5) (2017); *see also* § 69-12-340 (outlining steps required to obtain a Class E motor carrier certificate of compliance); § 69-12-415 (2017) (explaining carrier fitness); § 69-12-402 (2017) (requiring a certificate holder to be in compliance with

Commission rules); and § 69-12-321(1)(c) (a protest related to a Class E application is limited to whether the carrier meets the fitness requirements of § 69-12-323(5)).

Throughout the course of the hearing, Lyft's attorney made numerous objections to Pintar's questions to witnesses, most of which were sustained by the Chairman on the basis they exceeded the scope of the issues properly before the Commission for decision. Final Investigative Report at 2. Chairman Johnson also, on at least one occasion, stepped-in to halt witness questioning and remind Pintar to limit questions to those bearing on the issues under consideration. *Id.* at 3. However, the Chairman also overruled several of Lyft's objections and permitted Pintar to rephrase at least one objected-to question and have it answered by the testifying witness. *Id.* at 3.

Following the hearing, the Commission conducted a work session at a regularly scheduled business meeting and decided to grant Lyft's Application to operate in Montana. The decision to grant Lyft's Application has never been directly challenged.

Following the hearing, Pintar filed her complaint with HRB alleging discrimination in government services on the basis of sex. Formal Notice of Claim against the State of Mont. and its Political Subdivision, and the Mont. Pub. Serv. Commn, HRB Case No. 0170483 (Aug. 21, 2017). The HRB investigator

communicated with both Commission staff and Pintar and then reviewed the full hearing transcript and video footage from the Lyft hearing. Final Investigative Report at 2. Ultimately, the investigator concluded there was no reasonable cause to believe unlawful discrimination had occurred. *Id.* at 4. Specifically, he found there was insufficient evidence to support Pintar's allegations that she was intimidated during the hearing; had been denied the opportunity to participate in the hearing; or that the hearing was unfairly limited as to time or scope. *Id.* at 3-4.

Instead, he found that Pintar was provided the opportunity to, and did in fact, participate in the hearing; that limitations imposed by the Commission were appropriate; and that though Pintar's questions were subject to numerous objections, those objections were properly sustained. *Id.* The investigator noted that the struggles which formed the core of the case appeared to be those of a *pro se* litigant representing herself in a formal contested case proceeding. Such obstacles, the Final Investigative Report noted, "are well known to *pro se* litigants of all ages, races, religions and creeds", as well as both sexes. *Id.* at 4.

Pintar filed a formal objection to HRB's decision under Mont. Code Ann. § 49-2-511(1) and, following review of HRB's Final Investigative Report and record, HRC affirmed the HRB decision. In doing so it concluded that the decision reached by HRB was not an abuse of discretion. Final Agency Dec., HRB Case No. 0170483, 2 (May 29, 2018).

Pintar then sought judicial review of the Final Agency Decision. Dist. Ct. R. at 1. Both in her Petition to the district court and in her Initial Brief, she made requests for oral argument. *Id.* at 1:14; Dist. Ct. R. at 14:28. The district court, in its Order Setting Briefing Schedule, however, allowed for oral argument requests only “after all briefing is complete.” Dist. Ct. R. at 10:1. Pintar did not renew her request for oral argument following the completion of briefing.

Following briefing by the parties, the district court found that substantial credible evidence existed to support the decision of HRB and HRC. *Id.* at 17. It did so without providing an opportunity for oral argument, but did not expressly comment on Pintar’s requests therefore.

STANDARD OF REVIEW

Because the HRB investigator concluded that there were no reasonable grounds to believe unlawful discrimination had occurred, there was no hearing examiner appointed, or contested case hearing conducted in this case under Mont. Code Ann. § 49-2-505 (2017). Thus, rather than apply the standard of review applicable to HRC contested case decisions provided in Mont. Code Ann. § 2-4-704(2) (2017), this Court should utilize the standard applicable to informal agency decisions when considering whether the HRC decision should be reversed. *See Hobble Diamond Ranch, LLC v. State*, 2012 MT 10, 363 Mont. 310, 317, 268 P.3d 31, 37.

In reviewing informal agency decisions, the Court engages in review to determine whether the decision of the agency was arbitrary, capricious, unlawful, or not supported by substantial evidence. *Id.* at ¶21. When considering whether a decision was arbitrary or capricious, this Court asks “whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. . . . This inquiry must be searching and careful, but the ultimate standard of review is a narrow one Furthermore, [this Court] cannot substitute [its] judgment for that of the [agency] by determining whether its decision was correct.” *Id.* (internal citations and quotations omitted).

“This Court affords deference to an agency's legal determination when that agency is interpreting a statute that it has been authorized by the legislature to administer. . . . [The Court] defer[s] to an agency’s interpretation of its rule unless it is plainly inconsistent with the spirit of the rule; however, neither this Court nor the district court must defer to an incorrect agency decision.” *Upper Mo.*

Waterkeeper v. Mont. Dept. of Env'tl. Quality, 2019 MT 81, ¶ 13, 395 Mont. 263, 270, 438 P.3d 792, 797 (internal citations omitted).

The decision of the district court not to provide opportunity for oral argument should be reviewed for abuse of discretion under *Va. City v. Olsen*, 2002 MT 176, ¶13, 310 Mont. 527, 530, 62 P.3d 383, 384-385.

SUMMARY OF THE ARGUMENT

Pintar's opening brief identifies 14 separate issues for review which allege injury and/or reversible defects at every stage of this proceeding, beginning with the original Commission hearing, and continuing through the HRB investigation, HRC review thereof, and finally the district court's review of the agency decision. Most of the issues identified by Pintar appear to have significant overlap and, in the interest of brevity and ease of review, the Commission has consolidated its discussion of each issue.

All issues identified by Pintar (with the exception of Issue No. 10) concern either the initial determination by HRB to dismiss her complaint or the review of that decision by HRC or the district court. They generally allege that each body reached the incorrect conclusion; that Pintar was unlawfully discriminated against by the Commission; and that HRB unfairly limited the scope of its investigation. Because each of these 13 issues address essentially the same question (i.e. whether HRB committed reversible error in its conclusion), they should be considered together.

To that point, the scope of the investigation conducted by HRB was both adequate and appropriate given the nature of claims asserted by Pintar. Likewise, the conclusion reached by HRB correctly characterized Pintar's complaint as that of a *pro se* litigant, unfamiliar with administrative procedure and frustrated by the

challenges in navigating a contested case proceeding, rather than that of a woman, unfairly and unlawfully discriminated against, by the Commission. The decision of the HRB investigator was therefore supported by substantial evidence and was neither arbitrary, nor capricious, nor unlawful and should be affirmed.

Issue No. 10 identified by Pintar concerns the decision of the district court judge not to provide opportunity for oral argument. While MAPA does allow for oral argument on a petition for judicial review upon request of a party, Pintar did not comply with the district court's directives in requesting oral argument and therefore waived that right. Additionally, and even if this Court is not inclined to give effect to the limitations imposed by the district court, it should conclude that it, nevertheless, properly exercised its discretion to deny the opportunity for oral argument because it was clear from the briefs of the parties alone that Pintar was not entitled to reversal of the HRC decision.

The process of navigating a formal contested case hearing is almost certainly intimidating for a *pro se* litigant. However, the frustration and intimidation felt by Pintar are not the products of discrimination. Rather, they are similar feelings encountered by many—if not most—who take up their own causes before administrative or judicial bodies, despite a lack of experience or training.

HRB reasonably concluded (and HRC and the district court appropriately affirmed) that no reasonable grounds exist to believe that the Commission

unlawfully discriminated against Pintar. The decision of HRB should be affirmed and the case dismissed.

ARGUMENT

I. HRB's decision and dismissal of Pintar's discrimination claim was reasonable and supported by substantial evidence.

Pintar alleges error by HRB both in the ultimate conclusion reached as well as the investigation conducted. Her initial claim with HRB alleged discrimination in government services on the basis of sex under Mont. Code Ann. § 49-2-308(1)(a) (2017). That statute prohibits the state, and its political subdivisions from refusing, withholding from, or denying to a person any government services on the basis of, among other things, sex, unless based on reasonable grounds. *Id.* Establishing a claim for discrimination in provision of government services requires a prima facie showing by the claimant that she is a member of a protected class and that she was treated differently because of membership in that class. *Albert v. City of Billings*, 2012 MT 159, ¶27, 365 Mont. 454, 460, 282 P.3d 704, 708 citing Mont. Admin. R. 24.9.610(2)(a)(i) and (ii). HRB's Final Investigative Report correctly articulates that standard. *See* Final Investigative Report at 3.

The specific nature of discrimination to which Pintar alleges she was subjected appears to consist of the following: (1) the issuance of a hearing script by Commission staff along with their decision to provide that script to the parties; (2)

limitations as to both hearing length and scope imposed by the Commission; (3) hostile and demeaning treatment of Pintar during the hearing by Commissioners, including the sustaining of numerous of Lyft's objections to Pintar's questions; and (4) Commissioner Kavulla's failure to recuse himself following a request by Pintar.

Under Title 69, Chapter 12 the legislature has specified what the Commission may consider in an application for a Class E motor carrier certificate. *See* Mont. Code Ann. § 69-12-323(5); *see also* § 69-12-340 (outlining steps required to obtain a Class E motor carrier certificate of compliance); § 69-12-415 (explaining carrier fitness); and § 69-12-402 (requiring a certificate holder to be in compliance with Commission rules). The legislature has also imposed limitations on the scope of a protest of a Class E application. *See* Mont. Code Ann. § 69-12-321(1)(c) (a protest related to a Class E application is limited to whether the carrier meets the fitness requirements of § 69-12-323(5)).

Limitation of the scope of the hearing by way of the hearing script and the sustaining of various objections was therefore necessary and appropriate to ensure an orderly and efficient proceeding and to ensure the hearing remained on the topic of the fitness of Lyft as a Class E motor carrier. To that end, the HRB investigation noted that the hearing transcript and video showed that objections to Pintar's questions were properly sustained in light of the scope of the hearing, and

that the only proactive efforts by the Commission to limit Pintar, also sought to guide her to germane topics for that proceeding.

Similarly, HRB found that neither the hearing transcript nor video footage revealed hostile or threatening treatment of Pintar by any Commissioner as alleged. Final Investigative Report at 4. In fact, HRB noted that Pintar was treated the same as the male attorney representing Lyft. *Id.* at 3.

Regarding the duration of the hearing, Pintar alleges that the hearing script requested that parties limit their respective cases-in-chief to one hour. *See e.g.* Opening Br. of Pet./Appellant at 29. Whether the parties voluntarily complied with this request is unclear from the record. However, it is clear that, in total, the hearing lasted approximately four hours. Final Investigative Report at 3.

It also does not appear, and Pintar does not allege, that the Commission took any affirmative action to halt the presentation of Pintar's case for any reason related to running over a pre-allotted duration. Finally, and perhaps most importantly, Pintar concedes that the time limitation of which she complains was imposed upon both her and her male counterpart representing Lyft. *See* Opening Br. of Pet./Appellant at 5 (citing language in hearing script requesting the parties limit their respective cases-in-chief to under an hour).

As to the requested recusal of Commissioner Kavulla, it does not appear that Pintar submitted any evidence to HRB to indicate that she satisfied the procedural

requirements for requesting disqualification of a hearing examiner (*see* Mont. Code Ann. § 2-4-611(4) (2017)), or that Commissioner Kavulla met the “irrevocably closed mind” standard required to prove bias or prejudice on the part of an administrative decision maker (*see Madison River R.V. Ltd. V. Town of Ennis*, 2000 MT 15, ¶15, 298 Mont. 91, 94, 994 P.2d 1098, 1100).

The Commission concedes that Kavulla publicly advocated for the Class E legislation under which Lyft filed its Application. However, as publicly-elected executive officers, it is to be expected that the Commissioners will take public positions on the matters which fall within Commission jurisdiction. To require recusal in each such instance would bring the conduct of Commission business to a standstill. More importantly however, Commissioner Kavulla’s public advocacy of Lyft legislation suggests, at best, a bias in favor of Class E motor carriers, not discrimination against women. The investigator was thus able to support his conclusions with substantial evidence from the hearing video and transcript.

Pintar also argues that the breadth of the investigation conducted by HRB was inadequate. She contends that HRB should have reviewed the transcripts of other Commission hearings and interviewed other male motor carriers to determine whether she was unlawfully discriminated against. However, the essence of Pintar’s claims are that her ability to effectively participate in the Lyft hearing was severely limited as a result of disparate treatment by the Commission based on her

sex. Because her complaints focus exclusively on her treatment during the public hearing (specifically the scope of what she was permitted to present, the time she was allotted, and the way she was treated), the breadth of the investigation conducted by HRB was also appropriate. By reviewing the hearing script and video footage the investigator was able to observe the actual treatment of Pintar by the Commission during the hearing. The investigator could then compare this treatment against the treatment of the male attorney representing Lyft. Review of the transcript and video also allowed the investigator to determine whether the hearing was conducted appropriately given the scope dictated by Title 69, Chapter 12, and the general expectation of how a formal public hearing should proceed under MAPA and other appropriate law. After review of the 3 hour and 57 minute video, along with the 143-page hearing transcript, the investigator appropriately concluded that Pintar was not treated differently based on her sex and the hearing was appropriately limited based on applicable law.

The findings of fact and conclusions drawn therefrom by HRB are supported by substantial credible evidence. Likewise, the decisions of the investigator in identifying the appropriate scope of his investigation were reasonable under the circumstances and neither arbitrary nor capricious. HRB conducted a thorough investigation and thereafter correctly applied Mont. Code Ann. § 49-2-308 to reach

the correct conclusion that there was no reasonable cause to believe Pintar had been subject to disparate treatment on the basis of sex.

HRC, and thereafter the district court, subsequently reviewed the decision of HRB along with the record and both correctly determined that there was no basis to reverse the decision of HRB. This Court should affirm the decision reached by HRB as supported by substantial credible evidence.

II. The district court acted within its discretion in denying Pintar the opportunity for oral argument.

Pintar, in both Issue Nos. 10 and 11, contends she was improperly denied the opportunity for oral argument in connection with her Petition for Judicial Review before the district court. She cites Mont. Code Ann. § 23-5-137(2)(a) (2017) as creating a right to oral argument in review of decisions of HRC. That statute, however, pertains to judicial review of decisions of the Department of Justice in gambling-related matters. It does not relate to HRC decisions or decisions of administrative agencies generally. However, MAPA does provide for oral argument, upon request, in cases of judicial review of agency decisions. Mont. Code Ann. § 2-4-704(1) (“The court, upon request, shall hear oral argument and receive written briefs.”).

This Court has stated a district court is not obligated, under MAPA, to provide oral argument when not expressly requested by the parties. *See Carruthers*

v. Board of Horse Racing of Dept. of Commerce, 216 Mont. 184, 700 P.2d 179 (1985). However, it does not appear that it has considered an instance where a district court has declined to provide oral argument despite the request having been made. To that point, the Commission suggests application of the abuse of discretion standard applied by this Court when reviewing a district court's denial of a hearing on summary judgment. *See Va. City*, 2002 MT 176, ¶13; *Linn v. City County Health Dept.*, 1999 MT 235, ¶6, 296 Mont. 145, 146-174, 988 P.2d 302, 303.

Regarding summary judgment motions and petitions for judicial review, the scenarios are similar. In the instance of deciding a motion for summary judgment, a court reviews those facts which are undisputed to determine whether the movant is entitled to judgment as a matter of law. Mont. R. Civ. Proc. Rule 56(c)(3). A hearing in the context of summary judgment is useful insofar as it allows the court to better consider whether genuine issues of material fact exist. *Va. City*, 2002 MT 176, ¶16 citing *Cole v. Flathead County*, 236 Mont. 412, 419, 771 P.2d 97, 101 (1989). In a petition for judicial review of an informal agency decision in which the district court defers to agency findings of fact, a hearing is similarly useful to assess whether the agency has made an arbitrary, capricious or unlawful decision in applying or interpreting those facts. The procedural provisions in the two scenarios are comparable as well in that both allow for oral argument only after a

request has been made by a party. Mont. Code Ann. § 2-4-704(1); Mont. R. Civ. Proc. 56(c)(2).

With that in mind, in the context of a motion for summary judgment, this Court has “recognized that ‘there may be an occasion when under the law and the facts adduced, the movant would be so clearly entitled as a matter of law to a summary judgment that a district court might by order dispense with the necessity of a hearing.’” *Va. City*, 2002 MT 176, ¶16 citing *Cole*, 236 Mont. 16 419, 771 P.2d at 101. A similar analysis should be applied here.

In her Order affirming the HRC decision, the district court judge noted that Pintar had merely restated the same arguments made to HRB without explaining why, under the appropriate standard of review, the decision of HRC should be overturned. Dist. Ct. R. at 17:3. In other words, there was no argument and no set of facts presented by Pintar to the district court in which she would have been entitled to a reversal of the HRC decision.

In addition, the district court ordered that parties could request oral argument only after all briefing was complete. *Id.* at 10:1. Pintar did not comply with this directive, making her requests in her Petition and again in her Initial Brief. This requirement imposed by the district court was not pointless, but rather serves an important role in promoting judicial efficiency. Requiring parties to wait to request oral argument until the conclusion of briefing encourages them to consider

whether it is necessary or will advance their position. It encourages parties to conserve judicial resources by allowing them to request oral argument at a time when they can fully consider whether it would aid the court in reaching a decision.

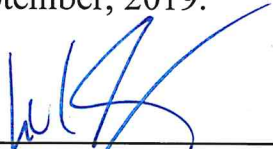
The district court's Order regarding oral argument should be given effect. This Court should determine the district court's requirement regarding oral argument was reasonable and not an abuse of discretion. Pintar failed to make a request in compliance with the district court's directive and this Court should therefore conclude that it was not an abuse of discretion to forego oral argument on judicial review of this case.

In addition, and even if this Court is inclined to overlook the requirements imposed by the district court regarding oral argument, it should nevertheless determine that it was not an abuse of discretion to deny oral argument. As correctly articulated by the district court, Pintar did not assert any argument as to why HRC should be reversed based on the relevant standard of review. Instead, she reasserted her case initially made to HRB. Without asserting a viable position in her briefs, the district court could safely conclude that nothing Pintar could present at oral argument would make her position any more compelling. It was therefore not an abuse of discretion for the district court to decline to provide opportunity for oral argument.

CONCLUSION

This Court should affirm the decision of HRB/HRC (as well as the district court's subsequent judicial review thereof) finding no reasonable grounds to believe Pintar was discriminated against. It should also uphold the decision of the district court declining to provide opportunity for oral argument.

Dated this 23rd day of September, 2019.

A handwritten signature in blue ink, appearing to be 'LK' or similar initials, written over a horizontal line.

Luke Casey
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11(4)(e) of the Montana Rules of Appellate Procedure, I certify that this Opening Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced, except for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 4,717 words, excluding the Table of Contents, Table of Authorities, and Certificate of Compliance.



Luke Casey

CERTIFICATE OF SERVICE

I, Justin Wade Kraske, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee and Cross-Appellant to the following on 09-23-2019:

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