

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CA2852</b>
	)	EEOC NO.: <b>21BA11389</b>
<b>CHRISTOPHER ANAELE,</b>	)	ALS NO.: <b>12-0247</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Terry Cosgrove<sup>1</sup> presiding, upon the Request for Review (“Request”) of Christopher Anaele (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2011CA2852 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On March 29, 2011, Petitioner filed a charge with the Respondent alleging that the City of Chicago, Independent Police Review Authority (“Employer”) issued Petitioner a poor performance review because of his race, age, national origin (Counts A, B, and D), and in retaliation for having filed a previous charge of discrimination (Count C), in violation of Sections 2-102(A) and 6-101(A) of the Act.

On January 25, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) he is a member of a protected class; 2) he was performing his work satisfactorily; 3) he was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside his protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm’n, 262 Ill. App. 3d 247, 634 N.E.2d 463 (2d Dist. 1994). The Employer may then rebut the *prima facie* case by articulating a legitimate, nondiscriminatory reason for its actions, and the Petitioner must then show that this reason is pretextual. Burnham City Hospital v. Illinois Human Rights Comm’n, 126 Ill. App. 3d 999, 467 N.E.2d 635 (1984). Counts A, B, and D fail at this point; the Employer showed that, prior to the performance review Petitioner complains of, he had received a string of similarly poor reviews over

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<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Cosgrove prior to the expiration of his term.  
<sup>2</sup> In a request for review proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

the previous two years, from two different supervisors. Petitioner has not shown that this articulated reason was pretext for discriminatory action.

Count C (that the poor performance review in March 2011 was retaliation for filing a discrimination charge in September 2010) also fails. A *prima facie* case of retaliation requires evidence that the Petitioner engaged in a protected activity, that they suffered an adverse action, and that there is evidence of a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035, (3rd Dist. 2000). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short, but the time period here – five months – is too long. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness). Even if Petitioner had presented a *prima facie* case, the Employer has produced a legitimate, nondiscriminatory reason (his history of poor performance) for its action, and Petitioner has not proven that this reason is a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989).

Accordingly, the Petitioner has not presented any evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The dismissal of the Petitioner's charge is hereby **SUSTAINED**.
2. This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the City of Chicago, Independent Police Review Authority, as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS** )  
 ) **Entered this 11th day of October 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Rose Mary Bombela-Tobias