

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011SA0393
)	EEOC NO.: N/A
DAVID PICKETT,)	ALS NO.: 12-0511
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Lauren Beth Gash¹ presiding, upon David Pickett's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011SA0393 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 the Petitioner's charge for **EXPIRATION OF TIME TO FILE A COMPLAINT WITH THE HUMAN RIGHTS COMMISSION** is **SUSTAINED**.

DISCUSSION

On August 10, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Archer Daniels Midland Company ("Employer") discriminated against him because of his race, sex, and in retaliation for filing a previous charge of discrimination in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On July 31, 2012, the Respondent dismissed the Petitioner's charge for expiration of the time period to file a complaint with the Human Rights Commission. The Petitioner filed a timely Request.

The Commission finds that the Respondent properly dismissed the Petitioner's charge. Section 7A-102(G) of the Act details the procedures in place for when the Respondent does not issue a report within 365 days of the filing of a complaint. 775 ILCS 5/7A-102(G). Under the Act, if the Respondent fails to complete its investigation of a charge within 365 days, then a 90-day window opens for a complainant to file a complaint directly with the Commission or in the Circuit Court. The Act further states that if the Petitioner files a complaint with the circuit court, "the Department shall immediately cease its investigation and dismiss the charge of civil rights violation." The Petitioner here filed a complaint in the circuit court of Macon County within the 90-day window provided by the Act, and therefore his charge with the Respondent was properly dismissed. The Respondent's dismissal does not terminate the Petitioner's complaint before the circuit court.

¹ This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.

² 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."

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 Archer Daniels Midland Company 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 5th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin

Commissioner Hermene Hartman

Commissioner Lauren Beth Gash