



STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 304-348-2616

ARCHA MOORE, JR.
Governor

September 23, 1988

Judith Sweeney
1222 Sherman St.
Williamsport, PA 17701

Peter Conley, Esq.
316 Lowndes Bank Bldg.
Clarksburg, WV 26301

Judith Bumgardner
395 Broaddus St.
Clarksburg, WV 26301

Patsy Landers
163 W. Pike St.
Clarksburg, WV 26301

Veterans of Foreign Wars
Post # 573
430 W. Pike St.
Clarksburg, WV 26301

Barbara Fleischauer
346 Watts St.
Morgantown, WV 26505

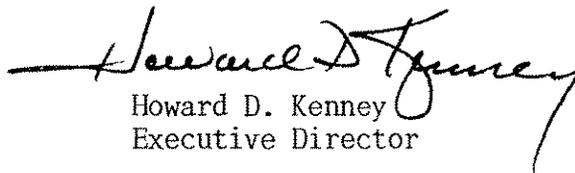
Re: Sweeney, Bumgardner & landers v. Veterans of Foreign Wars
Post 573 ES-560-83 & ES-559-83 & ES-558-83

Dear Parties:

Herewith, please find the final order of the WV Human Rights Commission in the above-styled and numbered case.

Pursuant to WV Code, Chapter 5, Article 11, Section 11, amended and effective April 1, 1987, any party adversely affected by this final order may file a petition for review with the supreme court of appeals within 30 days of receipt of this final order.

Sincerely,


Howard D. Kenney
Executive Director

HDK/mst
Attachments

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

NOTICE

OF STATUTORY RIGHT TO JUDICIAL REVIEW
AMENDED AND EFFECTIVE
AS OF APRIL 1, 1987

Enr. H. B. 2628]

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116 this article.

§5-11-11. Appeal and enforcement of commission orders.

1 (a) From any final order of the commission, an
2 application for review may be prosecuted by either
3 party to the supreme court of appeals within thirty days
4 from the receipt thereof by the filing of a petition
5 therefor to such court against the commission and the
6 adverse party as respondents, and the clerk of such
7 court shall notify each of the respondents and the
8 commission of the filing of such petition. The commis-
9 sion shall, within ten days after receipt of such notice,
10 file with the clerk of the court the record of the
11 proceedings had before it, including all the evidence.
12 The court or any judge thereof in vacation may
13 thereupon determine whether or not a review shall be
14 granted. And if granted to a nonresident of this state,
15 he shall be required to execute and file with the clerk
16 before such order or review shall become effective, a
17 bond, with security to be approved by the clerk,
18 conditioned to perform any judgment which may be
19 awarded against him thereon. The commission may
20 certify to the court and request its decision of any
21 question of law arising upon the record, and withhold
22 its further proceeding in the case, pending the decision
23 of court on the certified question, or until notice that the
24 court has declined to docket the same. If a review be
25 granted or the certified question be docketed for
26 hearing, the clerk shall notify the board and the parties
27 litigant or their attorneys and the commission of the fact
28 by mail. If a review be granted or the certified question
29 docketed, the case shall be heard by the court in the
30 manner provided for other cases.

31 The appeal procedure contained in this subsection
32 shall be the exclusive means of review, notwithstanding
33 the provisions of chapter twenty-nine-a of this code:
34 *Provided*, That such exclusive means of review shall not
35 apply to any case wherein an appeal or a petition for
36 enforcement of a cease and desist order has been filed
37 with a circuit court of this state prior to the first day
38 of April, one thousand nine hundred eighty-seven.

39 (b) In the event that any person shall fail to obey a
40 final order of the commission within thirty days after
41 receipt of the same. or, if applicable, within thirty days
42 after a final order of the supreme court of appeals. a
43 party or the commission may seek an order from the
44 circuit court for its enforcement. Such proceeding shall
45 be initiated by the filing of a petition in said court, and
46 served upon the respondent in the manner provided by
47 law for the service of summons in civil actions; a hearing
48 shall be held on such petition within sixty days of the
49 date of service. The court may grant appropriate
50 temporary relief, and shall make and enter upon the
51 pleadings, testimony and proceedings such order as is
52 necessary to enforce the order of the commission or
53 supreme court of appeals.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

JUDITH SWEENEY, JUDITH
BUMGARDNER and PATSY LANDERS,

Complainants,

vs.

Docket Nos. ES-560-83
ES-559-83
ES-558-83

VETERANS OF FOREIGN WARS
POST NUMBER 573,

Respondent.

O R D E R

On the 31st day of August, 1988, the West Virginia Human Rights Commission reviewed the proposed order and decision of Hearing Examiner Carter Zerbe in the above-captioned matter, relating to the amount of back pay and incidental damages. After consideration of the aforementioned, the Commission does hereby adopt said proposed order and decision, encompassing proposed Findings of Fact and Conclusions of Law, as its own, with the modifications and amendments set forth below.

On page 1, of the Recommended Decision, third line from the bottom of the page the phrase "plus interest" is deleted and the phrase "as incidental damages" is substituted therefor. On page 2 the phrase "plus interest" on lines 1 and 2 and on the last line is deleted and the phrase "plus pre-judgment interest at the rate of 10% per annum" is substituted therefor. On page 2, third line from the bottom, the phrase "plus interest" is deleted and

the phrase "as incidental damages" is substituted therefor.

It is hereby ORDERED that the Hearing Examiner's proposed order and decision, encompassing Findings of Fact and Conclusions of Law, be attached hereto and made a part of this final order except as amended by this final order.

By this final order, a copy of which shall be sent by certified mail to the parties, the parties are hereby notified that they have ten days to request a reconsideration of this final order and that they may seek judicial review.

ENTERED this 16th day of Sept, 1988.

Respectfully Submitted,


CHAIR/VICE-CHAIR
WV HUMAN RIGHTS COMMISSION

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

JUDITH SWEENEY, JUDITH
BUMGARDNER, and PATSY LANDERS,

Complainant,

vs.

DOCKET NOS: ES-560-83
ES-559-83
ES-558-83

VETERANS OF FOREIGN WARS
POST NUMBER 573,

Respondent.

RECOMMENDED DECISION

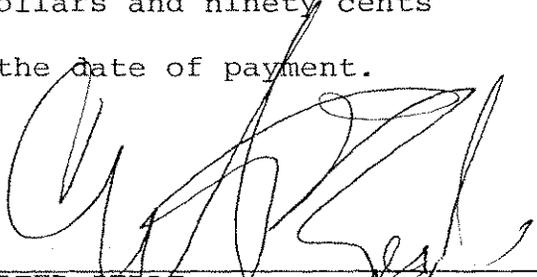
The parties having announced to the undersigned Hearing Examiner that they have reached an agreement and stipulation on the amount of back wages, damages, and the mitigation thereof in the above-styled case; and having provided the Hearing Examiner with supporting documentation of the stipulated amounts; and as the stipulation and agreement appears to be fair, equitable and accurate, the Hearing Examiner hereby finds and determines pursuant to the Commission's remand Order that complainants; Judith Sweeney and Patsy Landers have mitigated all their back pay and thus are entitled only to the previously awarded amount of one thousand dollars (\$1,000) for incidental damages plus interest. It is further determined that Judith Bumgardner's back pay minus interim earnings amounts to nineteen thousand one

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W.V. HUMAN RIGHTS COMM.

hundred fifteen dollars and ninety cents (\$19,115.90) plus interest and, thus, the Hearing Examiner recommends that in addition to its previously awarded one thousand dollars (\$1,000) plus interest, Ms. Bumgardner be awarded nineteen thousand one hundred fifteen dollars and ninety cents (\$19,115.90) plus interest to the date of payment.



CARTER ZERBE
HEARING EXAMINER

7-29-88

DATED