



**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**  
 215 PROFESSIONAL BUILDING  
 1036 QUARRIER STREET  
 CHARLESTON, WEST VIRGINIA 25301

TELEPHONE 304-348-2616

ARCH A MOORE, JR.  
 Governor

April 14, 1986

Paula Price  
 846 Smoot Avenue  
 Madison, WV 25130

Sharon Mullens, Esq.  
 Assistant Attorney General  
 1204 Kanawha Boulevard, East  
 Charleston, WV 25301

Madison Civic Center  
 Madison  
 West Virginia 25130

James J. MacCallum  
 Shaffer & Shaffer  
 Boone National Bank Bldg.  
 P. O. Box 36  
 Madison, WV 25130

RE: Paula Price V Madison Civic Center  
~~PAR 311-81A~~

*PA1331-81A* *[Signature]*

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**APR 17 1986**

**Civil Rights Div.**

Dear Above Parties:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Paula Price V. Madison Civic Center.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

*Howard D. Kenney*  
*(clm)*

Howard D. Kenney  
 Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

PAULA PRICE,

Complainant,

vs.

Docket No. PAR-311-81A

MADISON CIVIC CENTER,

Respondent.

O R D E R

On the 11th day of March, 1986, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner David G. Hanlon. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own, with the exceptions set forth below.

The Commission hereby amends the Findings of Fact and Conclusions of Law in the section entitled "ACTION", paragraph (2) by deleting the phrase "One Thousand Dollars (\$1,000.00)" and substituting therefor the phrase "Three Thousand Dollars (\$3,000.00)."

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order, as amended.

The Respondent is hereby ORDERED to provide to the Commission proof of compliance with the Commission's Order within thirty-five (35) days of service of said Order by copies of cancelled checks, affidavit or other names calculated to provide

such proof.

By this 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 ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 21<sup>st</sup> day of March, 1986.

Respectfully Submitted,



**CHAIR/VICE-CHAIR  
WEST VIRGINIA HUMAN  
RIGHTS COMMISSION**

OK

*No more money - Madison Court 1/14/85*

BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS  
and THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

PAULA PRICE,  
Complainant,

v.

MADISON CIVIC CENTER,  
Respondent.

*Approved  
12/14/85*

CASE NO. PAR 311-81A

DECISION OF HEARING EXAMINER

Pursuant to notice duly-issued to the respondent, this matter came on for hearing on the 23rd day of September, 1985, beginning at 9:00 a.m., in the County Commission Room of the Boone County Court House, in Madison, West Virginia. David G. Hanlon, Hearing Examiner, presiding, both parties having waived the presence of a member of the Human Rights Commission.

The complainant, PAULA PRICE, appearing in person and by her counsel, Sharon Mullens, Assistant Attorney General, and the respondent appearing by its counsel, James J. MacCallum.

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W.V. HUMAN RIGHTS COMM.

It appearing that notice as required by law, setting forth the time and place of the hearing and the matters to be heard, had been duly-served upon the respondent and respondent appearing by counsel, the hearing was convened at the aforesaid time and place, the same being completed on the 23rd day of September, 1985.

Upon due consideration of the evidence and of the briefs of counsel, the Hearing Examiner hereby makes the following Findings of Fact and Conclusions of Law:

#### ISSUES

Two issues were presented in this cause: (1) Did the City of Madison discriminate in the use of a public accommodation on the basis of race; and (2) Is the complainant, a white female married to a black man, a proper person to maintain this action.

#### FINDINGS OF FACT

(1) The complainant, PAULA PRICE, is a white female married to a black man, and has, for all relevant times, been a resident of Madison, Boone County, West Virginia.

(2) PAULA PRICE belonged to and was formerly president of a bi-racial organization based primarily in the southern part of Madison, West Virginia, known as the First Southside Ladies Association.

(3) On or about the 7th day of November, 1980, the Southside Ladies Association paid Fifty Dollars (\$50.00) to rent the second floor of the Madison Civic Center for a semi-formal New Year's Eve dance.

(4) Upon arriving to decorate the said second floor on the 30th day of December, 1980, PAULA PRICE and two other association members were informed by Ray Smoot - then Madison Civic Center Director - that they could not use the second floor room because the Moose Lodge did not want them to use the lobby and restrooms of the Civic Center at the same time the Moose were using them.

(5) The Moose Lodge, an all-white organization at that time, had rented the Main Arena of the Madison Civic Center for its annual New Year's Eve dance prior to the 7th day of November, 1980.

(6) RAY SMOOT, a black male, was Director of the Madison Civic Center during November and December, 1980, and was employed by the Parks and Recreation Commission of the City of Madison.

(7) RAY SMOOT helped secure an alternative facility for the Southside Ladies Association dance at the Madison Memorial Building, located next door to the Madison Civic Center, which resulted in the additional expense to the association of \$30.00 in rent and \$75.00 in additional decorations.

(8) All of the action taken by the Civic Center Director was done in good faith to avoid possible racial incidents occurring between members of the Moose Lodge and persons attending the Southside Ladies Association dance, as drinking at both events would occur.

(9) RAY SMOOT was aware of the Civic Center's contract with the Moose Lodge at the time he agreed to rent the upstairs room to the Southside Ladies Association.

(10) A Complaint was filed by PAULA PRICE with the West Virginia Human Rights Commission on the 18th day of January, 1981, alleging discrimination, and the Complaint was filed within ninety (90) days of the occurrence of the alleged discriminatory act.

### CONCLUSIONS OF LAW

The complainant is a person within the meaning of Chapter 5, Article 11, Section 3(a) of the West Virginia Code.

The respondent is a place of public accommodation, located in Madison, Boone County, West Virginia, within the meaning of Chapter 5, Article 11, Section 3(j) of the West Virginia Code.

On the 20th day of January, 1981, the complainant filed a verified Complaint against the respondent, alleging that the respondent had engaged in unlawful discriminatory practices, prohibited under Chapter 5, Article 11, Section 9(f) of the West Virginia Code. The said Complaint was later amended on the 18th day of May, 1981.

The Complaint was timely filed within ninety (90) days of the alleged acts of discrimination.

The West Virginia Human Rights Commission has jurisdiction over the parties and the subject matters contained in the Complaint and in the Amended Complaint.

RAY SMOOT, as an agent/employee of the Parks and Recreation Commission of the City of Madison, was the person having authority to enter into binding contracts, oral or

written, with persons for the use of any advantage, facility, privilege or service of the Madison Civic Center offered to the public.

The treatment afforded complainant, individually and as a member of a bi-racial organization known as the First Southside Ladies Association, by the respondent, through Director RAY SMOOT, in denying the Association and its guests access to the public facilities of the Madison Civic Center, amounted to a denial of a public accommodation on the basis of race and constituted unlawful discrimination in violation of Code § 5-11-9(f).

It is recognized at the outset of this recommended decision that RAY SMOOT is a highly-respected black community leader in the City of Madison and throughout Boone County, West Virginia. It is further recognized that the actions taken by RAY SMOOT were based on a genuine belief that a racial conflict might occur between some members of the all-white Moose Lodge and those attending the Southside Ladies Association dance while both groups were celebrating the New Year with the drinking of alcoholic beverages.

Nevertheless, it is clear that the action taken by the Civic Center Director was a result of pressure, express or implied, by the all-white Moose Lodge in refusing to share the facilities of the Civic Center with a racially-mixed group.

The fact that discrimination occurred is clear. The question arising, however, is: can the complainant, a white female, maintain this action. A reading of the West Virginia Human Rights statute itself leads to the inescapable conclusion that PAULA PRICE can.

Chapter 5, Article 11, Section 2 of the West Virginia Code - the declaration of policy - states in part:

It is the public policy of the State of West Virginia to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age or blindness . . . .

The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age or blindness is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

The Amended Complaint makes it clear that the complainant is alleging that all of the members of the Southside Ladies Association were discriminated against, as well as their guests, on the basis of race.

Chapter 5, Article 11, Section 9(f) of the West Virginia Code defines an unlawful discriminatory practice "as the refusal, denial or withholding from any individual because of his race, either directly or indirectly, any accommodations, advantages, facilities, or privileges of a place of public accommodation".

The discrimination in this instance against complainant individually, if not direct, is certainly related to her race<sup>\*</sup> as a white woman married to a black man. The discrimination against the black members of the association is unquestionable.

It would be a perversion of the express declaration of State policy in the Act itself to deny complainant a remedy in this matter because she is white. An act of discrimination occurred, the complainant was one of its victims and suffered embarrassment and humiliation as a result.

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\* And her status, also, as a female--also a protected class, under the W.Va. Human Rights Act (W.Va. Code 5-11-1 et seq.)

ACTION

It is accordingly recommended that:

(1) The complainant recover the sum of \$105.00 actual damages on behalf of the Southside Ladies Association; and

(2) Under the authority of Chapter 5, Article 11, Section 8(h) of the West Virginia Code and the holding in State Human Rights Commission v. Pearlman Realty Agency, 161 W.Va. 1, 239 S.E.2d 145 (1977), the complainant be awarded the sum of One Thousand Dollars (\$1,000.00) from the respondent as compensatory damages to the complainant for humiliation and embarrassment she endured as a result of the discriminatory conduct of the respondent; and

(3) The respondent be enjoined from engaging in any further acts of discrimination.

GIVEN under my hand this 13th day of December, 1985.



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DAVID G. HANLON  
HEARING EXAMINER

DAVID G. HANLON, Hearing Examiner, does hereby certify that on the 19<sup>th</sup> day of December, 1985, a true copy of the foregoing Decision of Hearing Examiner was served upon the complainant and the respondent in that certain case numbered PAR-331-81, currently pending before the West Virginia Human Rights Commission, by depositing a true copy of the same in the United States Mail, first-class, postage prepaid, addressed to the counsel of record for such complainant and respondent:

Sharon Mullens, Esquire  
Assistant Attorney General  
1204 Kanawha Avenue East  
Charleston, West Virginia 25301

James J. MacCallum, Esquire  
Shaffer & Shaffer  
P. O. Box 38  
Madison, West Virginia 25130

RECEIVED  
APR 17 1986  
CIVIL RIGHTS DIV.

  
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DAVID G. HANLON  
HEARING EXAMINER  
108 East Main Street  
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