

STATE OF MICHIGAN
COURT OF APPEALS

THOMAS THOMPSON,

Petitioner-Appellee,

v

CIVIL SERVICE COMMISSION and MICHIGAN
CORRECTIONS ORGANIZATION,

Respondents-Appellants.

UNPUBLISHED
October 30, 1998

No. 199796
Wayne Circuit Court
LC No. 94-427932 AA

Before: Markey, P.J., and Sawyer and Whitbeck, JJ.

MEMORANDUM.

Respondents appeal by leave granted from the circuit court's order reversing the Civil Service Commission's (CSC) order approving the CSC's Employment Relation Board's (ERB) decision denying leave to appeal from an administrative law judge's order dismissing as time-barred petitioner's unfair labor practice charge against respondent Michigan Corrections Organization. We reverse and reinstate the CSC's order.

Respondents argue on appeal that petitioner abandoned, during the administrative proceedings, the issue which formed the basis of the circuit court's decision, i.e., whether the statute of limitations was equitably tolled by petitioner's alleged mental disability. We agree. Petitioner failed to pursue his administrative remedies to completion because he failed to raise the tolling issue before the ERB. *Ackerberg v Grant Community Hosp*, 138 Mich App 295, 299; 360 NW2d 599 (1984). The circuit court therefore should not have considered the tolling issue. *Id.* For the same reason, we will not consider the tolling issue. *Id.*

Reversed. The CSC's order is reinstated.

/s/ Jane E. Markey
/s/ David H. Sawyer
/s/ William C. Whitbeck