



**In the Matter of:**

**LARRY EDMONDS,**

**ARB CASE NO. 05-002**

**COMPLAINANT,**

**ALJ CASE NO. 2004-CAA-15**

**v.**

**DATE: July 22, 2005**

**TENNESSEE VALLEY AUTHORITY,  
TVA CHAIRMAN GLENN L. McCULLOUGH,  
JR., INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL UNION  
NO. 852,**

**RESPONDENTS.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

*Edward A. Slavin, Esq., St. Augustine, Florida*

*For the Respondents:*

*Thomas F. Fine, Esq., Tennessee Valley Authority, Knoxville, Tennessee*

**FINAL DECISION AND ORDER DISMISSING APPEAL**

**BACKGROUND**

This case arose when the Complainant, Larry Edmonds, filed a complaint alleging that the Respondent, Tennessee Valley Authority, violated the whistleblower protection provisions of the Clean Air Act (CAA).<sup>1</sup> On July 21, 2004, the Chief Administrative Law Judge wrote a letter to Edmonds in which he stated:

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<sup>1</sup> 42 U.S.C.A. § 7622 (West 2003). This provision prohibits employers from discharging or otherwise discriminating against any employee “with respect to the

Continued . . .

This is to Acknowledge receipt of a request, filed on your behalf by attorney Edward A. Slavin, Jr., pursuant to the Freedom of Information Act and the Privacy Act for all documents bearing your name. This request is contained within Mr. Slavin's letter requesting a hearing in *Edmonds v. TVA*, 2004-CAA-15.

Attorney Slavin has been denied the authority to appear in any representative capacity before the Office of Administrative Law Judges. *See In re: Slavin*, 2004-MIS-2 (ALJ Mar. 31, 2004) (Order Denying Authority to Appeal). Thus, if in the future you wish to file FOIA or Privacy Act requests with this office, you need to do so personally or using a representative other than Mr. Slavin.

The Chief Administrative Law Judge then proceeded to respond to the FOIA request.

On August 3, 2004, Edmonds filed an interlocutory appeal of the Chief Administrative Law Judge's letter with the Administrative Review Board.<sup>2</sup> In response the Board issued an Order to Show Cause. The Board stated in this Order:

The Secretary of Labor has delegated her authority to issue final agency decisions under the Clean Air Act, to the Administrative Review Board. Edmonds has not cited to, nor is the Board aware of, any statute or regulation that invests the Board with authority to review an ALJ's letter. Furthermore the Board does not generally give advisory opinions. The ALJ's letter refers to future requests for information that Edmonds may never make. Finally, on April 29, 2005, the Board issued a Final Decision and Order upholding the decision of Associate Chief Administrative Law Judge Thomas M. Burke suspending Slavin's authority to appear in a representative capacity

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employee's compensation, terms, conditions, or privileges of employment" because the employee engaged in protected activities such as initiating, reporting, or testifying in any proceeding regarding environmental safety or health concerns. *See* 29 C.F.R. § 24.2 (2004).

<sup>2</sup> The Secretary of Labor has delegated her authority to issue final agency decisions under the CAA to the Board. Secretary's Order 1-2002 (Delegation of Authority and Responsibility to the Administrative Review Board), 67 Fed. Reg. 64272 (Oct. 17, 2002); 29 C.F.R. § 24.8(a).

before the Office of Administrative Law Judges for at least five years from the date of Judge Burke's decision.<sup>3</sup> Thus, in any event, Edmonds's objection to the ALJ's refusal to allow Slavin to represent him is now moot.<sup>4</sup>

The Board ordered Edmonds to file his response to the Show Cause Order on or before June 22, 2005, but Edmonds failed to respond.

#### **DISCUSSION**

Edmonds requested the Board to review the ALJ's letter informing Edmonds that his counsel, Slavin, was not permitted to represent him and would not be permitted to file future FOIA requests with the Chief Administrative Law Judge. But Edmonds failed to respond to the Board's Order directing him to demonstrate why his request was not moot given the Board's affirmance of the order denying Slavin the right to represent parties before the Department of Labor's Administrative Law Judges. Consequently, we **DISMISS** his appeal.<sup>5</sup>

**SO ORDERED.**

**OLIVER M. TRANSUE**  
**Administrative Appeals Judge**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

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<sup>3</sup> *In re: Edward A. Slavin*, ARB No. 04-088, ALJ No. 2004-MIS-2. The Board has also suspended Slavin from practicing before it. *In re: Edward A. Slavin*, ARB No. 04-172 (Oct. 20, 2004). Accordingly, while we will consider documents Slavin has filed on Edmonds's behalf at the Board prior to April 12, 2005, we will not permit him to represent Edmonds or any other party (other than himself) before the Board after that date until the Supreme Court of Tennessee lifts its suspension.

<sup>4</sup> Order To Show Cause (June 9, 2005).

<sup>5</sup> We also note that the Board has previously dismissed an appeal filed by Attorney Slavin of an Administrative Law Judge's "unfriendly letter" after Slavin failed to respond to the Board's order requiring the complainant to demonstrate that the Board had authority to review the letter. *In re Somerson*, ARB No. 03-068, ALJ Nos. 2002-STA-44, 2003-STA-11 (Oct. 21, 2003). In *Somerson*, the Board noted, "Somerson has failed to cite to and the Board is unaware of any statutory provision or regulation, which invests the Board with jurisdiction to review a Department of Labor Administrative Law Judge's "unfriendly letter." Slip op. at 1-2.