

U.S. Department of Labor

Office of Administrative Law Judges
St. Tammany Courthouse Annex
428 E. Boston Street, 1st Floor
Covington, LA 70433

(985) 809-5173
(985) 893-7351 (FAX)



Issue Date: 22 May 2006

CASE NO.: 2006-WPC-5

IN THE MATTER OF

**RICHARD R. PLANCHAK,
Complainant**

v.

**PRATT & WHITNEY,
Respondent**

**RECOMMENDED ORDER OF DISMISSAL
AND CANCELLATION OF HEARING**

I.

By letter dated November 15, 2005, Complainant, through counsel, filed a complaint with the U.S. Department of Labor alleging violations under the employee protection provisions of Section 507(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1367, by his former employer, the Respondent.

II.

On March 22, 2006, the Regional Supervisor of OSHA issued a determination stating that after an investigation the evidence indicated that Respondent discharged Complainant for legitimate business reasons and not for alleged activities protected by the Act. Complainant's complaint was dismissed.

III.

By letter dated March 3, 2006, Complainant, through his attorney, appealed OSHA's determination and requested a hearing before this office.

IV.

By Notice of Hearing and Pre-Hearing Order dated March 20, 2006, this case was set for formal hearing on June 22, 2006, and pursuant to 29 C.F.R. § 18.7 certain pre-trial obligations were imposed upon the parties including requiring Complainant, on or before April 11, 2006, to file and serve a detailed complaint describing the nature of the alleged violations as well as the relief sought.

V.

By letter dated April 18, 2006, Counsel for Respondent brought to the Court's attention that no timely complaint had been filed by Complainant and requested Complainant's action be dismissed.

VI.

By order dated May 4, 2006, both Complainant and his counsel were given ten (10) days to show cause why Complainant's complaint should not be dismissed for failure to abide by the Pre-Hearing Order of March 20, 2006.

VII.

Neither Complainant nor his counsel has responded to the show cause order.

VIII.

Based upon the foregoing, Complainant's request for hearing and complaint in this matter is **DISMISSED** inasmuch as Complainant is deemed to have abandoned his appeal. The formal hearing set for June 22, 2006, in Ft. Worth, Texas, is likewise **CANCELLED**.

So ORDERED this 22nd day of May, 2006, at Covington, Louisiana.

A

C. RICHARD AVERY
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review ("Petition") that is received by the Administrative Review Board ("Board") within

ten (10) business days of the date of issuance of the administrative law judge's Recommended Decision and Order. The Board's address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file your Petition with the Board, you must serve it on all parties to the case as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001. *See* 29 C.F.R. § 24.8(a). You must also serve copies of the Petition and briefs on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If no Petition is timely filed, the administrative law judge's recommended decision becomes the final order of the Secretary of Labor. *See* 29 C.F.R. § 24.7(d).