



In the Matter of:

RODNEY MORRIS,

ARB CASE NO. 05-007

COMPLAINANT,

ALJ CASE NO. 2004-AIR-31

v.

DATE: December 29, 2005

CORPORATE FLIGHT, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Rodney Morris, pro se, Grand Bank, Michigan

For the Respondent:

Fred A. Foley, Esq., Ehrlich, Foley & Serwer, P.C., Birmingham, Michigan

**FINAL ORDER APPROVING WITHDRAWAL OF OBJECTIONS
TO THE SECRETARY'S ORDER AND DISMISSING THE APPEAL**

This case arose under section 519 (the whistleblower protection provision) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C.A. § 42121 (West 2003), and its implementing regulations, 29 C.F.R. Part 1979 (2005). Rodney Morris filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration (OSHA) on March 30, 2004, alleging that Corporate Flight, Inc., violated AIR 21 when it withheld requested records in retaliation for his refusal to co-pilot an aircraft he was not qualified to fly on or about December 26, 2001. Following an investigation, OSHA denied the complaint on June 21, 2004. On June 30, 2004, Morris objected to OSHA's findings and requested a hearing before a Department of Labor Administrative Law Judge (ALJ).

On October 1, 2004, the ALJ issued a Recommended Decision and Order Granting Respondent's Motion for Summary Decision (R. D. & O.). The ALJ concluded that the undisputed facts established that the memorandum at issue had been produced and that the allegedly inaccurate information that it contained had not prejudiced Morris in any way with respect to his ability to obtain or retain employment in the airline industry; and that, as a consequence, Morris failed to show a violation of AIR 21. R. D. & O. at 9.

Morris filed a petition for review of the R. D. & O. with the Administrative Review Board on October 8, 2004. The Secretary has jurisdiction to review the ALJ's decision under AIR 21. 49 U.S.C.A. § 42121(b)(3) and 29 C.F.R. § 1979.110. The Secretary has delegated to this Board her authority to review cases under, inter alia, AIR 21. Secretary's Order 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002). This Board reviews the ALJ's factual determinations under the substantial evidence standard. 29 C.F.R. § 1979.110(b). We review conclusions of law de novo. *Negron v. Vieques Air Links, Inc.*, ARB No. 04-021, ALJ No. 2003-AIR-10, slip op. at 4-5 (ARB Dec. 30, 2004).

The Board issued a Notice of Appeal and Order Establishing Briefing Schedule on October 25, 2004. Morris's initial brief was due on or before November 24, 2004. On December 1, 2004, the Board received a letter from Morris dated November 23, 2004, in which he states, "The purpose of this letter is, after review of [the ALJ's] findings, I request that my Petition for Review in regards to this matter be dismissed." Corporate Flight filed a brief dated December 27, 2004, that noted that Morris had filed no brief and that incorporated by reference its previous submissions on summary judgment.

We grant Morris's request and **DISMISS** this appeal with prejudice.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge