



In the Matter of:

CLIFFORD J. WILLIAMS,

ARB CASE NO. 06-106

COMPLAINANT,

ALJ CASE NO. 2003-AIR-011

v.

DATE: April 30, 2008

UNITED AIRLINES,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Clifford J. Williams, *pro se*, Nantucket, Massachusetts

For the Respondent:

Gary S. Kaplan, Esq., *Seyfarth Shaw*, Chicago, Illinois

FINAL DECISION AND ORDER OF DISMISSAL

Clifford J. Williams appeals from a United States Department of Labor Administrative Law Judge (ALJ) decision dismissing his complaint against his former employer, Respondent United Airlines. We affirm the decision below.

BACKGROUND

In November 2002, Clifford J. Williams filed a complaint against his former employer, United Airlines. Williams alleged that United violated the employee protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the

21st Century, 49 U.S.C.A. § 42121 (West Supp. 2005)(the Act or AIR 21), by terminating his employment in retaliation for reporting United's safety violations to the Federal Aviation Administration. The Labor Department's Occupational Safety and Health Administration reviewed Williams' complaint but declined to investigate based on its finding that the complaint was not filed within the Act's 90-day limitation period. Williams then requested a formal administrative hearing pursuant to § 42121(b)(2)(A) and the implementing regulations at 29 C.F.R. §§ 1979.106, 1979.107 (2008).

While the complaint was pending, United filed for bankruptcy protection, and by order issued on June 3, 2003, a Labor Department ALJ stayed further administrative proceedings pursuant to the automatic stay provision of the United States Bankruptcy Code, 11 U.S.C.A. § 362(a)(1)(2004). On January 20, 2006, the Bankruptcy Court for the Northern District of Illinois, Eastern Division, entered an order confirming United's Second Amended Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code. Thereafter, on April 4, 2006, United filed a Notice of Discharge in Bankruptcy and moved for entry of an order of dismissal. Williams made no response to the motion. On May 4, 2006, the ALJ issued a Decision and Order Dismissing the Complaint for the reason that Williams' complaint had been discharged in bankruptcy.

DISCUSSION

Pursuant to 29 C.F.R. § 1979.110(a), Williams petitioned for review of the ALJ's Order of Dismissal. In two documents captioned "Order to Show Cause," Williams asserts that the aviation safety violations he believes United committed were felonies and therefore not subject to the United States Bankruptcy Code. In these documents Williams also cites to his Constitutional right to due process and his right to report safety violations to the Federal Aviation Administration and the Department of Transportation. We construe these filings as Williams' brief in support of his petition for review.

Our jurisdiction is limited to complaints filed pursuant to the whistleblower protection provision of the Act. We have no jurisdiction to consider Williams' argument that he has a constitutional right to a hearing on the matters that concern him. Nor do we have jurisdiction over complaints about safety violations in the airline industry. *Cf. Powers v. Paper, Allied-Indus. Chem. & Energy Workers Int'l Union*, ARB No. 04-111, ALJ No. 2004-AIR-019, slip op. at 3 (ARB Aug. 31, 2007). Thus, the only claim by Williams over which we have jurisdiction is his whistleblower retaliation complaint filed pursuant to AIR 21 § 42121.

With respect to the retaliation complaint, the ALJ dismissed it because it was discharged in bankruptcy. Williams does not challenge that ruling in any material way. He does not contend that the bankruptcy court did not in fact discharge the retaliation complaint. Nor does he suggest that the ruling conflicts with any provision in the Bankruptcy Code or with controlling precedent. *See* 11 U.S.C.A. §§ 1141(d)(1) (confirmation of a Chapter 11 reorganization discharges the debtor of any debt or claim that arose before the date of such confirmation), 524(a) (West 2004) (a discharge operates

as an injunction against the commencement or continuation of an action); *Friday v. Northwest Airlines, Inc.*, ARB No. 04-124, ALJ No. 2004-AIR-016, slip op. at 2-3 (ARB Sept. 28, 2007). Having failed to assert, much less argue, any error in the decision below on any matter that we have authority to consider, Williams has in effect conceded the validity of the Order to Dismiss.

CONCLUSION

Therefore, we **DENY** Williams' petition for review and **DISMISS** the complaint with prejudice.

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge