



In the Matter of:

DAVID STONE,

ARB CASE NO. 07-122

COMPLAINANT,

ALJ CASE NO. 07-SOX-021

v.

DATE: November 30, 2007

**INSTRUMENTATION LABORATORY
SpA. et al.,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

FINAL ORDER DISMISSING APPEAL

On January 29, 2007, the Complainant, David Stone, filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration alleging that his employer, Instrumentation Laboratory, had retaliated against him in violation of the whistleblower protection provisions of the Sarbanes-Oxley Act of 2002 (SOX).¹ On September 6, 2007, a Department of Labor Administrative Law Judge issued an Order Granting Respondent's Motion for Summary Decision Dismissing Complaints and Order Denying Complainant's Motion to Stay Summary Decision in this case. Stone filed a petition for review with the Administrative Review Board on September 24, 2007. The Secretary of Labor has delegated to the Board her authority to issue final agency decisions under SOX.²

¹ 18 U.S.C.A. § 1514A (West 2002).

² Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002); 29 C.F.R. § 1980.110(a)(2007).

On November 8, 2007, the Board received a letter from Stone's counsel indicating his intention "to bring an action for de novo review in the appropriate district court of the United States." If the Board has not issued a final decision within 180 days of the date on which the complainant filed the complaint and there is no showing that the complainant has acted in bad faith to delay the proceedings, the complainant may bring an action at law or equity for de novo review in the appropriate United States district court, which will have jurisdiction over the action without regard to the amount in controversy.³ Accordingly, we ordered the parties to show cause no later than November 26, 2007, why the Board should not dismiss Stone's appeal pursuant to 29 C.F.R. § 1980.114.

Stone filed a response stating that he had filed an action for de novo review in the United States District Court for the District of Maryland. Instrumentation Laboratory did not respond to the Board's Order. Accordingly, we **DISMISS** Stone's appeal.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

OLIVER M. TRANSUE
Administrative Appeals Judge

³ 18 U.S.C.A. § 1514A(b)(1)(B); 29 C.F.R. § 1980.114. As is the usual case, by the time the Board received the petition for review, the 180-day period for deciding the case had already expired.