

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



IN THE MATTER OF:

ROBERT KREB,

ARB CASE NO. 2024-0027

COMPLAINANT,

ALJ CASE NO. 2023-AIR-00008

ALJ SCOTT R. MORRIS

v.

DATE: May 24, 2024

**INTEGRA AVIATION, LLC D/B/A
APOLLO MEDFLIGHT, LLC,**

RESPONDENT.

**Before HARTHILL, Chief Administrative Appeals Judge, and WARREN,
Administrative Appeals Judge**

DECISION AND ORDER DISMISSING PETITION FOR REVIEW

PER CURIAM:

This case arises under the employee protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21).¹ On February 16, 2024, Administrative Law Judge (ALJ) Scott R. Morris issued a Decision and Order Dismissing Complaint (D. & O.). The ALJ found that Complainant Robert Kreb (Complainant) repeatedly failed to comply with discovery orders despite being “warned on at least five separate occasions that he was required to comply with discovery. . . .”²

On March 1, 2024, Complainant appealed the ALJ’s decision to the Administrative Review Board (ARB or the Board).³ On March 26, 2024, the Board

¹ 49 U.S.C. § 42121. AIR 21’s implementing regulations are found at 29 C.F.R. Part 1979 (2023).

² D. & O. at 10.

³ Complainant initially filed his appeal in ARB Case Number 2024-0023, a case where he was seeking interlocutory review of one of the ALJ’s orders. *Kreb v. Integra Aviation, LLC*, ARB No. 2024-0023, ALJ No. 2023-AIR-00008, slip op. at 1-2 (ARB Mar. 27, 2024).

issued the Notice of Appeal Acceptance, Electronic Filing Requirements, and Briefing Schedule (Briefing Order). The Briefing Order required Complainant to file an opening brief within 28 calendar days of the date of the Briefing Order (on or by April 24, 2024). Complainant did not submit an opening brief as ordered.

Consequently, on April 30, 2024, the Board issued an Order to Show Cause ordering Complainant to explain why the Board should not dismiss the appeal for failing to timely file an opening brief.⁴ The Board cautioned Complainant that if the Board did not receive a response and opening brief within ten business days of the Board's order (on or before May 14, 2024), the Board may dismiss the appeal without further notice.⁵ Nevertheless, Complainant did not file a response or an opening brief as ordered.

The Board has the inherent power to dismiss a case for failure to prosecute in an effort to control its docket and to promote the efficient disposition of its cases.⁶ Pursuant to this authority, the Board may dismiss an appeal in a case in which the petitioner fails to adequately explain their failure to comply with the Board's orders, including the briefing schedule.⁷

Complainant failed to file an opening brief as ordered by the Board. The Board gave Complainant the opportunity to explain why an opening brief was not filed, and explicitly warned that failure to do so could result in dismissal of the appeal. Complainant also failed to file a response. Given Complainant's failure to respond to, and comply with, the Board's orders, we **DISMISS** the appeal.⁸

The Board denied his petition for interlocutory review as moot and assigned Complainant's petition for review the above-captioned case number. *Id.*

⁴ Order to Show Cause.

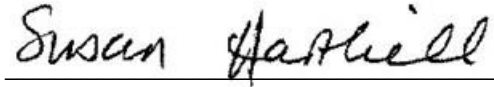
⁵ *Id.*

⁶ *Lewman v. Ken Brick Masonry Supply*, ARB No. 2007-0015, ALJ No. 2006-STA-00018, slip op. at 3 (ARB Oct. 31, 2007) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962)).

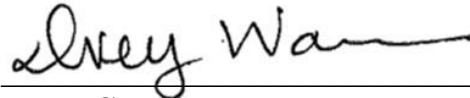
⁷ *Boch v. J.P. Morgan Secs.*, ARB No. 2022-0029, ALJ Nos. 2020-CFP-00002, 2020-SOX-00004, slip op. at 2 (ARB June 15, 2022) (citation omitted) (dismissing the appeal where the appealing party failed to respond to, and comply with, the Board's orders).

⁸ In any appeal of this Decision and Order that may be filed, we note that the appropriately named party is the Secretary, Department of Labor, not the ARB.

SO ORDERED.

Handwritten signature of Susan Harthill in cursive script.

SUSAN HARTHILL
Chief Administrative Appeals Judge

Handwritten signature of Ivey Warren in cursive script.

IVEY S. WARREN
Administrative Appeals Judge