



In the Matter of:

VASANTH GOVINDARAJAN,

ARB CASE NO. 2020-0032

PROSECUTING PARTY,

ALJ CASE NO. 2020-LCA-00001

v.

DATE: May 25, 2021

N2 SERVICES, INC.

RESPONDENT.

**Before: James D. McGinley, *Chief Administrative Appeals Judge*, and
Thomas H. Burrell, *Administrative Appeals Judge***

ORDER DENYING MOTION FOR RECONSIDERATION

PER CURIAM. On March 17, 2021, the Administrative Review Board (ARB or Board) issued an Order Dismissing Complaint in this case on the grounds that Vasanth Govindarajan (Complainant) failed to serve his opening brief in accordance with the Board's Briefing Schedule and did not proffer any explanation for his failure to do so in response to the Board's Order to Show Cause. Complainant has requested the Board to reconsider our decision. For the following reasons, we deny Complainant's Motion for Reconsideration.

BACKGROUND

The Board received a petition for review on February 18, 2020, from Complainant. On March 11, 2020, the ARB issued a Notice of Intent to Review and Briefing Schedule, which noted that Complainant had not served his petition for review on N2 Services, Inc. (Respondent). The Briefing Schedule cautioned Complainant that he "must serve all further filings on the Respondent. If the requirement is not met, the Board may dismiss the petition for review."

On March 14, 2020, Complainant filed his opening brief, but Complainant did not serve his brief on Respondent in accordance with the requirements of the Board's Briefing Schedule.¹ Accordingly, on March 9, 2021, the Board issued an Order to Show Cause, which required Complainant to demonstrate why his case should not be dismissed for failure to serve his opening brief on Respondent. On March 10, 2021, Complainant submitted his response to the Order to Show Cause, but Complainant's response failed to explain why he did not serve Respondent in accordance with the Briefing Schedule's requirements.

On March 17, 2021, the Board issued an Order Dismissing Complaint on the grounds that Complainant failed to serve his opening brief in accordance with the Board's Briefing Schedule and did not proffer any explanation for his failure to do so in response to the Board's Order to Show Cause. On March 17, 2021, Complainant filed a Motion for Reconsideration.

DISCUSSION

The Board has previously identified four non-exclusive grounds for reconsidering a final decision and order, which include whether the movant has demonstrated: (i) material differences in fact or law from those presented to the Board of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the Board's decision, (iii) a change in the law after the Board's decision, or (iv) failure to consider material facts presented to the Board before its decision.²

Complainant asserts we should reconsider our decision for a few reasons, including: (1) Complainant misunderstood the Order to Show Cause, which is why he did not provide an explanation for his failure to serve his opening brief; and (2) Complainant did not receive the Briefing Schedule because he had recently moved from Bangalore, India to Tamil Nadu, India, therefore, he was unaware of his obligation to serve his opening brief on Respondent.

Complainant has failed to demonstrate a ground upon which the Board will grant reconsideration. Complainant explains that he misunderstood the Order to Show Cause, yet the Order explicitly informed Complainant of his obligation to "show cause and demonstrate why the Board should not dismiss this case for

¹ In addition, Complainant's failure to serve his opening brief on Respondent violated the Immigration and Nationality Act's provisions under 20 C.F.R. § 655.845(g), which require parties to serve "[c]opies of all documents filed with the Board ... upon all other parties involved in the proceeding."

² *Gupta v. Headstrong, Inc.*, ARB Nos. 2015-0032, -0033, ALJ No. 2014-LCA-00008, slip op. at 2 (ARB Feb. 14, 2017) (Order Denying Motion for Reconsideration)(citation omitted).

Complainant's failure to serve his opening brief on Respondent." In addition, even if Complainant had recently moved, Complainant had registered as an e-Filer, which allows Complainant to electronically access case filings in any location. The Board electronically served Complainant with the Briefing Schedule on March 11, 2020. Subsequently, on March 14, 2020, Complainant filed his opening brief, utilizing the same electronic filing system that the Board used to serve Complainant with the Briefing Schedule.

None of Complainant's arguments fall within any of the four limited circumstances under which we will reconsider our decisions. Accordingly, we **DENY** the Complainant's Motion for Reconsideration.³

SO ORDERED.

³ Complainant may petition for review of the Board's Decision. *See* Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretarial review)), 85 Fed. Reg. 13186, 13188 at (6)(b)(1) (Mar. 6, 2020); 20 C.F.R. § 655.850 (judicial review); *see also* 5 U.S.C. §§ 701-706.