



In the Matter of:

VINAY YADAV,

ARB CASE NO. 2020-0048

COMPLAINANT,

ALJ CASE NO. 2020-SOX-00017

v.

DATE: July 16, 2021

FROST BANK,

RESPONDENT

Appearances:

For the Complainant:

Vinay Yadav; *pro se*; San Antonio, Texas

For the Respondent:

Mario A. Barrera, Esq.; *Norton Rose Fulbright US LLP*; San Antonio, Texas

**Before: James D. McGinley, *Chief Administrative Appeals Judge*, and
Randel K. Johnson, *Administrative Appeals Judge***

ORDER DENYING RECONSIDERATION

PER CURIAM. Vinay Yadav filed a complaint alleging that his former employer, Frost Bank, took various adverse actions against him in violation of the employee protection provision of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1514A (2010) (SOX). On June 16, 2020, an Administrative Law Judge (ALJ) issued an Order of Dismissal, dismissing Yadav's claims for failing to state a claim upon which relief can be granted and untimeliness.

Yadav appealed the ALJ's decision to this Board, and on June 24, 2021 we issued an Order Dismissing Complaint¹ (Order) for the same reasons explained by the ALJ. On July 8, 2021, Yadav filed a Petition for Panel Rehearing and Rehearing En Banc (Petition), which we construe as a request for reconsideration of our Order.

The Board is authorized to reconsider a decision upon receiving a motion for reconsideration within a reasonable time of the date on which the decision was issued.² We will reconsider our decisions under limited circumstances, which include: (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.³

Yadav argues that we should reconsider our ruling because the dismissal of his complaint violated several federal rules of procedure and Supreme Court precedent.⁴ But as we explained in our Order, Yadav's complaint and associated filings were subject to the rules governing proceedings before ALJs, which allow a party to "move to dismiss part or all of the matter for reasons recognized under controlling law, such as lack of subject matter jurisdiction, failure to state a claim upon which relief can be granted, or untimeliness."⁵

Yadav also argues that the ALJ and the Board erred by not considering adverse actions that he alleges occurred after July 12, 2019.⁶ But we agreed with

¹ *Yadav v. Frost Bank*, ARB No. 2020-0048, ALJ No. 2020-SOX-00017 (ARB June 24, 2021).

² *Henin v. Soo Line R.R. Co.*, ARB No. 2019-0028, ALJ No. 2017-FRS-00011, slip op. at 3 (ARB Mar. 22, 2019) (citing *Wimer-Gonzales v. J.C. Penney Corp., Inc.*, ARB No. 2010-0148, ALJ No. 2010-SOX-00045, slip op. at 2-3 (ARB Feb. 7, 2012)).

³ *Id.*

⁴ See list in Petition at ii.

⁵ Order at 4, citing 29 C.F.R. §18.70(c).

⁶ Petition at 12-13.

the ALJ's conclusion that the allegations in Yadav's complaint and subsequent submissions were too vague.⁷ The ALJ gave Yadav every reasonable opportunity to amend his complaint to provide clarification but he failed to do so.

In sum, none of Yadav's arguments fall within any of the limited circumstances under which we will reconsider our decisions. Therefore, we **DENY** the Petition.

SO ORDERED.

⁷

Order at 5.