

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 31 July 2012

CASE NO.: 2012 FRS 4
In the Matter of

JOSE J. SILVA
Complainant

v.

KANSAS CITY SOUTHERN RAILWAY COMPANY
Respondent

Appearances: Mr. Christopher H. Leach, Attorney
Mr. Corey L. Stull, Attorney
For the Complainant

Mr. James S. Urban, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**DISMISSAL OF COMPLAINT –
LOSS OF JURISDICTION**

On May 7, 2012, having been advised by counsel for the Complainant of an intention to file an original action in a district court of the United States under the provision of 49 U.S.C. § 20109(d)(3) because the Secretary, U.S. Department of Labor, has not issued a final decision on the present complaint, I cancelled the scheduled hearing and continued the proceedings until receipt of notice that such action had been filed. On July 30, 2012, Complainant's counsel advised that an action has been filed in federal district court, which under 49 U.S.C. § 20101(d)(3) now has jurisdiction.¹ Accordingly, the complaint before the Office of Administrative Law Judges is **DISMISSED**.

SO ORDERED:

A
RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: July 31, 2012
Washington, DC

¹See also *Stone v. Duke Energy Corp*, 432 F.3d 320 (5th Cir. 2005) (Sarbanes-Oxley case); see also *Kelly v. Sonic Automotive, Inc.*, ARB No. 08-027 (Dec. 17, 2008) (Sarbanes-Oxley case).