

**U.S. Department of Labor**

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**Issue Date: 09 August 2004**

**Case No.: 2004-STA-22**

**In the Matter of**

**WARREN TOLLIVER,**  
Complainant

**v.**

**SWIFT TRANSPORTATION CO., INC.,**  
Respondent

**FINAL DECISION AND ORDER APPROVING WITHDRAWAL OF  
OBJECTIONS AND DISMISSING CLAIM**

This matter arises under the employee protection provisions of Section 405 of the Surface and Transportation Assistance Act of 1982, 49 U.S.C. § 31105 and the implementing regulations found at 29 C.F.R. Part 1978. On January 8, 2004, the Complainant filed a complaint with the Occupational Safety and Health Administration, alleging that the Respondent terminated him because he engaged in protected activity. After investigation, the Secretary determined that there was no evidence of a violation, as the Respondent's termination was predominantly based on legitimate, non-discriminatory reasons. The Complainant appealed these findings and the matter was docketed in this Office on January 30, 2004; a hearing was scheduled to begin on April 13, 2004, but was postponed several times to September 21, 2004.

By letter received on July 15, 2004, the Complainant filed a Notice of Dismissal of his appeal of the Secretary's findings. Pursuant to 29 C.F.R. § 1978.111(c), a complainant may file a written withdrawal with an Administrative Law Judge at any time before the findings or order becomes final. Accordingly, it is hereby **ORDERED** that the

hearing scheduled on **Tuesday, September 21, 2004 at 9:00 a.m.** in **Austin, Texas** is **CANCELED**, the Secretary's findings are reinstated, and the above-captioned matter is hereby **DISMISSED**, pursuant to 29 C.F.R. § 1978.111(c). *See Creech v. Salen Carriers, Inc.*, 1988-STA-29 (Sec'y, Sept. 27, 1988).

**So ORDERED.**

**A**

**RICHARD D. MILLS**  
Administrative Law Judge