



Issue Date: 14 October 2014

Case No.: **2014-STA-77**

In the Matter of:

WILLIE CRUZ,
Complainant,

v.

RECYCLE WASTE SERVICES, INC.,
Respondent,

**ORDER DISMISSING CLAIM BECAUSE THE COMPLAINANT
HAS FILED A COMPLAINT IN FEDERAL DISTRICT COURT**

This proceeding arises from a claim of whistleblower protection under the Surface Transportation Assistance Act (STAA), as amended.¹ The statute and implementing regulations² provide that a complainant may file a complaint in the United States District Court if the Secretary of Labor has not issued a final decision within 210 days of the filing of a complaint with the Occupational Safety and Health Administration, and there is no showing that such delay is due to the bad faith of the complainant. More than 210 days have elapsed since the complaint was filed with the Department of Labor in this case. On October 9, 2014, the Complainant filed a copy of his “Complaint for Violation of the Surface Transportation Assistance Act, 49 U.S.C. § 31105 with Jury Demand,” filed in the United States District Court for the Northern District of Ohio, Western Division, on September 18, 2014. Because the Complainant has filed his claim in federal court, I find that I no longer have jurisdiction to hear the Complainant’s claim before the Office of Administrative Law Judges. For this reason, the claim is **DISMISSED**.

SO ORDERED.

Alice M. Craft
Administrative Law Judge

¹ 49 U.S.C. § 31105 (2011).

² 29 C.F.R. Part 1978 (2013).