



Issue Date: 18 August 2015

CASE NO.: 2015-STA-00016

In the Matter of:

ANTONIO ZAPATA,
Complainant,

vs.

BOSQUE DISPOSAL SYSTEMS, LLC.,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This matter is before me on a request by Antonio Zapata, the Complainant, for a hearing before the Office of Administrative Law Judges (“OALJ”) under the employee protection provision of the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, and the regulations promulgated at 29 C.F.R. Part 1978. The STAA prohibits covered employers from discharging or otherwise discriminating against employees who have engaged in certain protected activities with regard to their terms and conditions of employment.

The Complainant filed a complaint with the Occupational Safety and Health Administration (“OSHA”) on December 13, 2013, alleging that he had been terminated by the Respondent, Bosque Disposal System, after engaging in protected activity. The Regional Administrator for OSHA issued a determination on October 19, 2014, finding that the Complainant had not engaged in a protected activity and dismissed his complaint. The Complainant filed a timely request for a hearing on November 12, 2014.

I scheduled this case for a hearing on March 25, 2015, to take place in San Antonio, Texas. I vacated the hearing on January 5, 2015, after being advised that the Complainant’s attorney was closing down her law practice and the Complainant was going to have to search for a new attorney to represent him. The hearing was re-scheduled for September 24, 2015, after the Complainant obtained new counsel. After being advised on August 12, 2015, that the Complainant and Respondent had resolved this matter, I vacated the hearing in an order filed August 17, 2015. On the same day, August 17, 2015, I received a settlement agreement signed by both parties which memorializes the terms of their agreement.

Pursuant to § 31105(b)(2)(C) of the STAA, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and

the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary's findings “if the participating parties agree to a settlement and the settlement is approved by the ALJ... .” 29 C.F.R. § 1978.111(d)(2). Under the STAA a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Sec'y Feb. 18, 1993).

I have reviewed the Release, Settlement and Confidentiality Agreement filed by the parties on August 17, 2017, and find it to be fair, reasonable, and adequate and have determined that it constitutes a fair, adequate and reasonable settlement of the complaint and is in the public interest.

Accordingly, the Settlement Agreement is hereby APPROVED and the complaint is DISMISSED WITH PREJUDICE. Pursuant to 29 C.F.R. § 1978.111(e), my approval of the Release and Settlement Agreement becomes the final order in this case.

JENNIFER GEE
Administrative Law Judge