

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 13 March 2019

CASE NO.: 2018-STA-00080
OALJ NO.: 7-5880-18-037

In the Matter of:

RANDELL WELLS, JR.,
Complainant,

v.

TRANS AM TRUCKING INC.
AND ALEX JONES,
Respondents.

Appearances:

Paul O. Taylor, *Esq.*,
Peter LaVoie, *Esq.*
Edina, Minnesota
For the Complainant

John M. Neyers, *Esq.*
Kansas City, Missouri
For the Respondents

Before:
Larry A. Temin
Administrative Law Judge

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS,
DISMISSING COMPLAINT AND CANCELLING HEARING**

This proceeding arises under the Surface Transportation Assistance Act of 1982 (“STAA”), 49 U.S.C. § 31105, and the regulations promulgated thereunder at 29 C.F.R. Part 1978. The statute prohibits retaliatory or discriminatory actions against employees who engage in protected activity relating to commercial motor vehicle safety, health or security matters. The Secretary of Labor is empowered to investigate and determine “whistleblower” complaints filed by employees of commercial motor carriers who are allegedly discharged or otherwise discriminated against with

regard to their terms and conditions of employment. The Complainant herein requested a hearing by the Office of Administrative Law Judges (“OALJ”) because he objects to a finding by the Occupational Safety and Health Administration (“OSHA”) that it is unable to conclude that there is reasonable cause to believe that a violation of the statute occurred.

The Complaint in this matter was filed on January 5, 2018; OSHA issued its findings on August 23, 2018; and the Complainant served his objections to the OSHA findings on the Chief Administrative Law Judge on September 7, 2018. By Notice of Hearing and Prehearing Order issued November 19, 2018, I scheduled the hearing in this matter for April 9, 2019. By order issued December 18, 2018, I granted Respondents’ motion for continuance and rescheduled the hearing for April 16, 2019. On March 1, 2019, Complainant filed Complainant’s Withdrawal of Objections, stating that the Complainant does not wish to further pursue his claim because of health issues, and that Respondents do not object to the withdrawal. The Withdrawal states that the Complainant withdraws his objections to the Secretary’s Findings and Order dated August 23, 2018.

The regulations provide that “[a]t any time before the findings and order becomes final, a party may withdraw his objections to the findings or order by filing a written withdrawal with the administrative law judge.” The judge shall determine whether to affirm any portion of the findings or preliminary order or to approve the withdrawal. As no final decision has been issued in this matter, upon review of the record, and for good cause shown, the Complainant’s request to withdraw his objections is hereby **GRANTED**.

THEREFORE, the hearing in this matter scheduled for April 16, 2019 is hereby **CANCELLED**. Consistent with the regulations, the Secretary’s findings are affirmed in their entirety and the above captioned matter is hereby **DISMISSED** with prejudice without costs awarded to either party.

SO ORDERED.

LARRY A. TEMIN
ADMINISTRATIVE LAW JUDGE