



In the Matter of:

DAVY MERRITT,

ARB CASE NO. 05-084

COMPLAINANT,

ALJ CASE NO. 2004-AIR-13

v.

DATE: August 17, 2005

ALLEGHENY AIRLINES, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER STAYING PROCEEDINGS

This case arises under the whistleblower protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21),¹ Effective July 1, 2004, the named Respondent, Allegheny Airlines, merged into Piedmont Airlines, Inc., another wholly-owned subsidiary of US Airways, and Allegheny ceased to exist as a separate entity. On September 10, 2004, US Airways and Piedmont each filed for bankruptcy protection in the United States Bankruptcy Court for the Eastern District of Virginia. The carriers remain in bankruptcy.

On April 7, 2005, the Respondent filed a petition for review with the Administrative Review Board² from a [Recommended] Amended Decision and Order³ of a Department of Labor Administrative Law Judge finding that the Respondent had

¹ 49 U.S.C.A. § 42121 (West Supp. 2003).

² This Board has jurisdiction to review the ALJ's recommended decision under AIR 21 Section 519(b)(3), 49 U.S.C.A. § 42121(b)(3) and 29 C.F.R. § 1979.110. *See* Secretary's Order 1-2002, 67 Fed. Reg. 64,272 (Oct. 17, 2002) (delegating to the ARB the Secretary's authority to review cases arising under, inter alia, AIR 21 Section 519).

³ The Respondent also sought review of an interlocutory [Recommended] Decision and Order Granting Relief that the ALJ had issued on February 8, 2005.

terminated Davy Merritt's employment in violation of AIR 21's whistleblower protection provision and awarding damages, attorney's fees and costs.

In *Davis v. United Airlines*,⁴ we held that the Bankruptcy Code's automatic stay⁵ provision applies to cases litigated by private parties arising under AIR 21's whistleblower protection provision. Accordingly, we conclude that further proceedings in this case are stayed until the automatic stay is lifted or the bankruptcy proceedings are concluded.

SO ORDERED.

OLIVER M. TRANSUE
Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge

⁴ ARB No. 02-105, ALJ No. 01-AIR-5 (May 30, 2003).

⁵ 11 U.S.C.A. § 362(a)(1)(West Supp. 2003).