



In the Matter of:

DEMARCO W. TAFT,

ARB CASE NO. 2019-0031

COMPLAINANT,

ALJ CASE NO. 2019-FDA-00002

v.

DATE:

**MAY 13 2019**

FORT WORTH & WESTERN  
RAILROAD,

RESPONDENT,

and

DIRECTOR, OFFICE OF WORKERS'  
COMPENSATION PROGRAMS,

PARTY-IN-INTEREST.

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

### **ORDER DISMISSING PETITION FOR REVIEW**

On February 5, 2019, an Administrative Law Judge dismissed the underlying complaint in this matter because Complainant had filed civil suit in the United States (U.S.) District Court for the Western District of Michigan concerning the same matters that had given rise to his original administrative complaint. *See* 29 C.F.R. § 1987.114(a)(2)(2016). On February 19, 2019, Complainant filed a document styled "Appeal and Request for Administrative Review Hearing," ("Petition") in which he alerted the Administrative Review Board ("Board") to a document styled "Report and Recommendation," (R. & R.) purportedly issued by a U.S. Magistrate Judge from the U.S. District Court for the Western District of Michigan that recommended Complainant's civil suit be dismissed because it was not ripe. In light of this situation, the Board extended the point in time at which the decision of the ALJ would become the final order of the Secretary until 14 days after the issuance of a decision by the U.S. District Court concerning the R. & R. *See id.* § 1987.115. On May 3, 2019, a U.S. District Judge from the Western District of Michigan

rejected the R. & R. and authorized Complainant to bring his lawsuit in the appropriate district court. The only issue raised by Complainant in the Petition was the possible lapse in jurisdiction if his federal lawsuit was dismissed. As that issue has now apparently been resolved in Complainant's favor, the Petition is now moot. Accordingly, the Petition filed by Complainant is hereby **DISMISSED**.

**SO ORDERED FOR THE ADMINISTRATIVE REVIEW BOARD:**

A solid black rectangular redaction box covering the signature of William T. Barto.

William T. Barto  
Chief Administrative Appeals Judge

**NOTE: Questions regarding any case pending before the Board should be directed to the Board's staff. Telephone: (202) 693-6200; Facsimile (202) 693-6220**