



In the Matter of:

KEITH PRIOLEAU,

ARB CASE NO. 12-098

COMPLAINANT,

ALJ CASE NO. 2010-SOX-003

v.

DATE: August 30, 2012

SIKORSKY AIRCRAFT CORP.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Keith Prioleau, *pro se*, Stratford, Connecticut

For the Respondent:

David C. Salazar-Austin, Esq., *Day Pitney LLP*, Hartford, Connecticut

Before: Paul M. Igasaki, *Chief Administrative Appeals Judge*; Joanne Royce, *Administrative Appeals Judge*; and Luis A. Corchado, *Administrative Appeals Judge*.

ORDER DENYING INTERLOCUTORY REVIEW

This case arises under the employee protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, 18 U.S.C.A. § 1514A (Thomson/West 2011) (SOX), and its implementing regulations found at 29 C.F.R. Part 1980 (2011). The Complainant, Keith Prioleau (Prioleau), filed an action against the Respondent, Sikorsky Aircraft Corp. (Sikorsky) alleging that Sikorsky violated the SOX's employee protection provision when it discharged him because he made a protected report.

The Administrative Law Judge (ALJ) granted the Respondent's motion for summary decision and dismissed Prioleau's complaint, finding that Prioleau had not engaged in protected activity. On appeal, the Board remanded the case to the ALJ because it found that Prioleau proffered sufficient evidence to generate a genuine issue of material fact that he engaged in protected activity.

On remand, Prioleau filed a motion for preliminary reinstatement with the ALJ. Sikorsky objected. Prioleau also filed a supplemental motion for preliminary reinstatement. On August 2, 2012, the ALJ issued an order that denied Prioleau's motion for reinstatement. On August 13, 2012, Prioleau petitioned this Board for interlocutory review of the ALJ's denial of preliminary reinstatement.

We decline to grant review of Prioleau's interlocutory petition. Typically, the ARB will accept appeals only after a matter is fully and finally adjudicated before an ALJ except in limited circumstances where, for example, an ALJ certifies that an immediate appeal of a controlling question of law might materially advance the termination of the litigation and there is substantial ground for difference of opinion. *See Welch v. Cardinal Bankshares Corp.*, ARB No. 04-054, ALJ No. 2003-SOX-015, slip op. at 5-6 (ARB May 13, 2004). We have also reviewed appeals of "collateral orders" that satisfy the "collateral order doctrine." *United States Dept. of Labor, OFCCP v. Bank of America*, ARB No. 04-169, ALJ No. 1997-OFC-016, slip op. at 4 (ARB Dec. 17, 2004). In this case, Prioleau's appeal is neither a proper interlocutory appeal nor an appeal of a collateral order. His request is a premature request for reinstatement based on a misunderstanding of the significance of the ARB's Final Decision and Order of Remand (November 9, 2011) in this matter. We, therefore, deny his petition.

SO ORDERED.

LUIS A. CORCHADO
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge