



In the Matter of:

CRAIG CUMMINGS,

ARB CASE NO. 04-043

COMPLAINANT,

ALJ CASE NO. 2003-STA-47

v.

DATE: April 11, 2006

USA TRUCK, INC.,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Craig Cummings, pro se, Walnut Shade, Missouri

FINAL ORDER DENYING RECONSIDERATION

Craig Cummings filed a complaint alleging that his employer, USA Truck, Incorporated, violated the employee protection (whistleblower) provisions of the Surface Transportation Assistance Act (STAA or Act) of 1982, as amended and recodified, 49 U.S.C.A. § 31105 (West 1997), when it terminated his employment. After reviewing the record, we determined that the Administrative Law Judge (ALJ) properly held that Cummings failed to allege that he engaged in activity protected by the STAA.¹ Thus, in a Final Decision and Order dated April 26, 2005, we adopted the ALJ's holding, attached

¹ Prior to the scheduled hearing, the ALJ issued a Show Cause Order which required Cummings to show cause why his complaint should not be dismissed for failure to state a cause of action. Ultimately, the ALJ determined that Cummings did not allege activity protected by the STAA and, therefore, dismissed the complaint for failure to state a cause of action without holding a hearing.

and incorporated the ALJ's Recommended Order of Dismissal (R. O.), which was issued on January 9, 2004, and dismissed Cummings's complaint.

By letter postmarked May 24, 2005, Cummings submitted additional evidence and raised the same arguments that were considered and rejected by this Board in our original decision. We construed Cummings's filings as a request for reconsideration. Because the evidence presented by Cummings on reconsideration did not alter the record or the ALJ's determination in regard to whether Cummings engaged in protected activity under the STAA and because Cummings again raised the same arguments that were considered and rejected by this Board in our original decision, the Board declined to address them again on reconsideration. Thus, in an Order dated June 30, 2005, the Board denied the request for reconsideration.

By letters postmarked August 11, 2005, August 15, 2005, August 22, 2005, September 1, 2005, and November 8, 2005, Cummings again requested reconsideration, submitting additional evidence and raising the same arguments that were considered and rejected by this Board in our original decision. Because the evidence presented by Cummings did not alter the record or the ALJ's determination in regard to whether Cummings engaged in protected activity under the STAA and because Cummings again raised the same arguments that were considered and rejected by this Board in our original decision, the Board declined to address them on reconsideration. Thus, in an Order dated December 12, 2005, the Board denied the request for reconsideration.

Now, by letter dated February 14, 2006, Cummings has again requested reconsideration, submitting additional evidence and raising the same arguments that this Board considered and rejected in our original decision. The Board's decision in this case, however, has become final and no further requests for reconsideration will be accepted.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

WAYNE C. BEYER
Administrative Appeals Judge