



In the Matter of:

CARL B. BEDWELL, Sr.,

ARB CASE NO. 12-004

COMPLAINANT,

**ALJ CASE NO. 2011-STA-046
2011-STA-049**

v.

DATE: November 4, 2011

**SPIRIT MILLER NE, L.L.C.,
TRAVELERS INSURANCE COMPANY,
CAROLINA CASUALTY INSURANCE,
and TAX MASTERS,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Carl B. Bedwell, Sr., *pro se*, Leeds, Alabama

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

**FINAL DECISION AND ORDER APPROVING
WITHDRAWAL OF PETITION FOR REVIEW**

The Complainant, Carl Bedwell, filed a whistleblower complaint with the Occupational Safety and Health Administration (OSHA), alleging that the Respondents violated the employee protection provisions of section 405 of the Surface Transportation Assistance Act (STAA)¹ and its implementing regulations.² OSHA investigated the

¹ 49 U.S.C.A. § 31105, as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, 121 Stat. 266 (Aug. 3, 2007).

² 29 C.F.R. Part 1978 (2011).

complaint and found it that while Spirit was a covered employer, Travelers was not; that the complaint was untimely; and that the subject matter of the complaint was unrelated to STAA-protected activity.

Bedwell objected and requested a hearing by a Department of Labor Administrative Law Judge (ALJ).³ On September 13, 2011, the ALJ issued a Decision and Order Dismissing Consolidated Complaints as Untimely (D. & O.). Bedwell requested the Administrative Review Board to review the ALJ's D. & O.⁴

The Board issued a Notice of Appeal and Order Establishing Briefing Schedule. This Order provided that Bedwell's opening brief was due on October 27, 2011. Bedwell did not file a brief in accordance with the Board's Order. Instead he filed a "Notice of Withdraw[al]." In this notice Bedwell avers that "he wishes to withdraw complaints against Respondents . . . & yields to the ARB Board ALJ CASE 09-060 & ARB CASE 10-024 for immediate relief."⁵

³ See 29 C.F.R. § 1978.105(a).

⁴ See 29 C.F.R. § 1978.110.

⁵ The Board has no record of an appeal for Bedwell with the docket number 09-060. The Board issued its decision in ARB No. 10-024 on October 27, 2011, finding that Bedwell's complaint was not timely filed. *Bedwell v. Spirit Miller NE, L.L.C.*, ARB No. 10-024, ALJ No. 2009-STA-060 (Oct. 27, 2011). In this decision the Board noted,

Bedwell filed two more complaints against Spirit on June 27 and July 11, 2011 [ARB No. 12-004]. An ALJ consolidated these claims and dismissed both as untimely. *Bedwell v. Spirit-Miller NE, LLC*, ALJ Nos. 2007-STA-046, -049 (ALJ Sept. 13, 2011). The ARB recently declined to address the merits of an appeal because the complainant failed to submit a sworn affirmation explaining how his appeal and underlying complaint were not essentially a relitigation of his previous claims. *Saporito v. FPL Group, Inc.*, ARB No. 10-118, ALJ No. 2010-ERA-018, slip op. at 2-3 (ARB June 29, 2011). In this case, Bedwell continues to relitigate an issue that was first decided in 2006. His repetitious filing of complaints borders on abuse of process and invites legal sanctions. See *Howick v. Campbell-Ewald Co.*, ARB Nos. 03-156, 04-065; ALJ Nos. 2003-STA-006, 2004-STA-007, slip op. at 8 (ARB Nov. 30, 2004) (ARB affirmed the ALJ's dismissal of a complaint as a sanction for wasting adjudicatory resources).

Slip op. at 5 n.17.

The STAA's regulations provide, "If a case is on review with the ARB, a party may withdraw its petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The . . . ARB . . . will determine whether to approve the withdrawal of the . . . petition for review."⁶

Bedwell's decision to withdraw his appeal of the ALJ's D. & O. is in accordance with the Board's noted concern that "[h]is repetitious filing of complaints borders on abuse of process and invites legal sanctions."⁷ Accordingly, given the Board's concerns and knowing of no reason to deny Bedwell's motion, we **GRANT** his request to withdraw the petition as provided in 29 C.F.R. § 1978.111(c).

SO ORDERED.

LUIS A. CORCHADO
Administrative Appeals Judge

PAUL M. IGASAKI
Chief Administrative Appeals Judge

⁶ 29 C.F.R. § 1978.111(c).

⁷ *See Bedwell*, ARB No. 10-024, slip op. at 5 n.17.