

Alfred E. Ramey v. U.S. General Accounting Office

Docket No. 40-209-17-83

Date of Decision: January 27, 1984

Cite as: Ramey v. GAO (1/27/84)

Before: Ross, Chairman; Bowers, Feigenbaum and Jaffe, Members

Stays

Indefinite Stays

STAY ORDER

Pursuant to 4 CFR §28.107, the PAB General Counsel has requested that the removal of Petitioner, Alfred E. Ramey, be stayed for a period of 20 days in order to provide the PAB General Counsel with sufficient time to complete an investigation into the circumstances of Mr. Ramey's removal.

4 CFR §28.107 provides:

- (a) If the General Counsel determines after an investigation under these rules that there are reasonable grounds to believe that a personnel action was taken, or is to be taken, as a result of a prohibited personnel practice, the General Counsel may request any member of the Board to order a temporary stay of the personnel action for a period of not more than 60 days.
- (b) A Board member shall order a temporary stay under paragraph (a) of this section unless the member determines that such a stay would not be appropriate. Unless denied, any temporary stay requested shall be granted within 3 working days after the date of request.
- (c) The Board may grant a further temporary stay or a permanent stay if the Board concurs in the determination of the General Counsel and after an opportunity for oral or written comment by the General Counsel and GAO. A permanent stay by the Board is final and appealable in accordance with §28.27.

The General Counsel states that there are reasonable grounds to believe that the removal of Mr. Ramey constitutes retaliation for Petitioner's exercise of his appeal rights, in violation of 29 U.S.C. §2302(b)(9). That section makes it a prohibited personnel practice to "take...any personnel action against any employee...as a reprisal for the exercise of any appeal right granted by any law, rule or regulation." Specifically, the General Counsel states that there are reasonable grounds to believe that Mr. Ramey's removal was taken in retaliation for his prior filing of an EEO complaint within the Agency and before the PAB (see Ramey v. GAO, 1 PAB R&D 102, Oct. 19, 1981), and in Federal District Court. The General Counsel has set forth, in some detail, the evidentiary bases for his relief, derived from his investigation thus far.

After a careful review of the request filed by the General Counsel, I conclude that a stay is appropriate and should be granted. The pleadings reflect that Mr. Ramey was removed from the payroll at the close of business on January 20, 1984. Therefore, the order herein will require that he be reinstated for a period of 20 calendar days.

Accordingly, it is hereby ORDERED that the PAB General Counsel's request that the removal of Alfred E. Ramey be stayed for 20 days is granted. It is further ORDERED that the General Accounting Office restore Mr. Ramey to his prior position, as if no removal had taken place, effective January 30, 1984, and that he remain in such position through February 18, 1984, unless otherwise ordered by this Board.