

RUTH BASKERVILLE v. U.S. General Accounting Office

Docket No. 93-02

Date of Decision: April 20, 1993

Cite as: Baskerville v. GAO, Docket No. 93-02 (4/20/93)

Before: Nancy A. McBride, Administrative Judge

Headnotes:

Exhaustion of Remedies

Motion to Dismiss

MEMORANDUM AND ORDER

PERSONNEL APPEALS BOARD
U.S. GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C.

Ruth Baskerville,
Petitioner,

v.

United States General
Accounting Office,
Respondent.

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MEMORANDUM AND ORDER

The initial status conference in this matter was held on April 20, 1993, by the undersigned administrative judge. Petitioner was represented at the conference by John London Clark, Jr., Esq. Respondent appeared through Barbara J. Simball, Esq., Assistant General Counsel for Respondent.

The matter also came on Respondent's motion to dismiss certain allegations from the petition for review filed herein and on Respondent's motion for an enlargement of time for discovery.

Having considered Respondent's motion to dismiss and Petitioner's response thereto, the motion is DENIED. The motion was based on Petitioner's failure to exhaust administrative remedies (PAB Office of General Counsel and GAO Office of Civil Rights) with respect to certain allegations set forth in the petition for review. The regulations do not require that every allegation in a petition for review must be the subject of a charge filed with the PAB General Counsel. Moreover, claims and allegations may be added to the petition for review as long as the

parties have adequate notice to prepare for the new allegations and would not otherwise be prejudiced. (4 C.F.R. §§28.18(c); 28.21(a)). Respondent has adequate notice inasmuch as the contested allegations were presented in the petition for review, filed on March 3, 1993.

Having considered Respondent's motion for an enlargement of time for discovery, the reasons therefor, and the concurrence of the Petitioner, the motion is GRANTED. Accordingly, discovery requests are to be served on or before May 3, 1993, and discovery is to be completed no later than June 7, 1993. Failure of the petitioner to appear for deposition may result in the imposition of sanctions as provided at 4 C.F.R. §28.24.

Pursuant to discussions at the initial status conference, the future scheduling of this matter shall be as follows:

(1) Dispositive motions, if any, are to be filed and served no later than June 18, 1993. Responses to any such motions are to be filed and served on or before July 1, 1993.

(2) On or before July 13, 1993, the parties shall file, and exchange with each other, the following documents:

- a. Prehearing briefs and proposed findings of fact.
- b. A witness list which shall include:
 - 1) The official position of the witness at all times relevant to this proceedings; and
 - 2) A summary of the substance of the testimony of the witness, which summary should be

sufficiently particular to allow for relevant cross-examination.

c. A copy of all exhibits expected to be proffered at hearing, such exhibits to be marked according to the requirements of the Board's Regulations at 4 C.F.R. §28.56. Proposed exhibits containing illegible handwriting shall be accompanied by a typed version.

(3) A final status conference shall be held in the offices of the Personnel Appeals Board at 10:00 a.m., July 20, 1993.

4. The hearing in this matter shall commence at 9:30 a.m., on July 27, 1993 and run on consecutive days until finished. The time currently set aside for the hearing is July 27-30. The first witness will be heard at 10:00 a.m. on July 27. The hearing shall end at 5:00 p.m. each day, unless otherwise noticed.

SO ORDERED.

DATE: April 20, 1993

Nancy A. McBride
Administrative Judge