

ARTHUR L. DAVIS v. U.S. General Accounting Office

Docket No. 01-04

Date Issued: March 30, 2001

Cite as: Davis v. GAO, Docket No. 01-04 (3/30/01)

Before: Jeffrey S. Gulin, Administrative Judge

Headnotes:

Discovery

Motion to Compel

ORDER

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

_____)	
ARTHUR L. DAVIS,)	
)	
Petitioner)	
)	
v.)	Docket No. 01-04
)	
UNITED STATES GENERAL)	
ACCOUNTING OFFICE,)	
)	<u>March 30, 2001</u>
Respondent)	
_____)	

ORDER

Appearing *pro se*, Petitioner filed a Motion to Compel Respondent to Answer Interrogatories in this matter on Thursday, March 22, 2001. The Agency filed its Response on Thursday, March 29, 2001.

Petitioner apparently served the interrogatories on the Agency at the same time he filed the Petition for Review with the Board. The Petition was postmarked February 8, 2001, and received at the Board on February 13, 2001. A Notice of Petition for Review, along with a copy of the Petition, was sent to both parties on February 13.

Respondent argues that the Motion should be denied, because the interrogatories were served before the Agency knew that a Petition had been filed. Counsel for the Agency states further

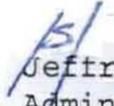
that Respondent first learned of the interrogatories on March 20, 2001, in the course of communication with Petitioner concerning the scheduling of his deposition. The Agency states that it will respond to the interrogatories within 20 days of learning of their existence, on or before April 9, 2001. See 4 C.F.R. §28.42(d)(2).

The Board's Rules require that "[r]equests for discovery shall be served within 30 days after the service list is served by the Board on all parties." 4 C.F.R. §28.42(d)(1). The Rules are silent as to how early in a proceeding a discovery request may be served, but service of the Notice along with the Petition for Review by the Board, 4 C.F.R. §28.20(b), is a logical prerequisite for the parties' mutual obligations regarding discovery to begin.

Upon consideration of the Motion, the Agency's explanation of the circumstances and its representation that it will reply to the discovery request on or before April 9, 2001, Petitioner's Motion to Compel Respondent to Answer Interrogatories is hereby denied.

SO ORDERED.

Date: 3-30-01


Jeffrey S. Gulin
Administrative Judge