

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

Docket No. 01-04

Date o: June 29, 2001

Cite as: Davis v. GAO, Docket No. 01-04 (6/29/01)

Before: Jeffrey S. Gulin, Administrative Judge

Headnotes:

Discovery

Evidence

Motion to Compel

STATUS CONFERENCE REPORT AND ORDER

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

ARTHUR L. DAVIS,)

Petitioner)

v.)

UNITED STATES GENERAL)
ACCOUNTING OFFICE,)

Respondent)
_____)

Docket No. 01-04

June 29, 2001

STATUS CONFERENCE REPORT AND ORDER

A telephone status conference was held in the above-captioned matter on Thursday, June 28, 2001 at 12 noon Eastern Daylight Time. Petitioner Arthur Davis participated *pro se*. The Respondent was represented by Senior Attorney James Lager.

This report and order memorializes the determinations reached during the status conference.

I. Status of Discovery

A. Petitioner's Second Set of Interrogatories

The parties reached agreement on interrogatories 6, 10, and 11 of Petitioner's Second Set of Interrogatories. Respondent's counsel has agreed to write a letter memorializing this agreement. Petitioner and the Board are to receive a copy of the letter.

Any remaining disputes as to Petitioner's Second Set of Interrogatories are subject to a motion to compel by the Petitioner, to be filed no later than close of business on July 3, 2001. The Respondent has ten days in which to respond to any motion to compel.

B. Petitioner's Third Set of Interrogatories

By Order dated April 11, 2001, the Board set May 11, 2001 as the final day by which to serve follow-up discovery requests. The Petitioner served his Third Set of Interrogatories on May 23rd. The Respondent responded challenging each of the interrogatories as to timeliness and relevance. On June 13, 2001, Petitioner filed a Motion to Compel. The Respondent filed its Opposition to Petitioner's Motion on June 25th. At the status conference, both parties were given the opportunity to argue their respective positions.

The Motion to Compel is denied.

The Petitioner's Third Set of Interrogatories was untimely. Petitioner has not shown good cause for not meeting the May 11th date. Further Petitioner has not met the requirement of showing that the information that he seeks is reasonably calculated to lead to the discovery of admissible evidence. 4 CFR §28.41(a); see *Hayes v. DHHS*, 829 F.2d 1092, 1103 (Fed. Cir. 1987).

II. Scheduling of Hearing

Following a discussion of possible hearing dates, it was agreed that the hearing would take place in late February or early March of 2002. The exact date will be set later.

SO ORDERED.

Date: 6-29-01


Jeffrey S. Gulin
Administrative Judge

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

Docket No. 01-04

Date Issued: November 7, 2001

Cite as: Davis v. GAO, Docket No. 01-04 (11/7/01)

Before: Jeffrey S. Gulin, Administrative Judge

Headnotes:

Interlocutory Appeals

Timeliness – General

ORDER

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

ARTHUR L. DAVIS,

Petitioner

v.

UNITED STATES GENERAL
ACCOUNTING OFFICE,

Respondent

Docket No. 01-04

November 7, 2001

ORDER

On October 17, 2001, Petitioner filed an "Appeal to the Full Board (sic) Personnel Appeals Board for Recusal of the Administrative Judge and the Full Board from any Consideration of This Case".¹ This followed my Order of September 28, 2001, denying Petitioner's initial motion for recusal.

Petitioner's filing constitutes an interlocutory appeal. The Board's regulations clearly enunciate the timeframe for filing a request for interlocutory review: "A motion for certification shall be filed within 10 days after service of the ruling upon the parties." 4 C.F.R. §28.81(c). The Order of September 28, 2001 was served that day by facsimile and U.S. Mail. Therefore, a timely interlocutory appeal should have been postmarked by October 8, 2001. Petitioner's filing was postmarked October 14. Petitioner provides no cause for failure to meet the filing deadline.

¹ Respondent filed its Response on November 5, 2001.

Moreover, Petitioner's claim is without merit because he failed to show that "[t]he ruling involves an important question of law or policy about which there is substantial ground for difference of opinion; and [that] [a]n immediate review of the ruling by the Board will materially advance the completion of the proceeding, or denial will cause undue harm to a party or the public." 4 C.F.R. §28.81 (a)(1) and (2). Accordingly, Petitioner's interlocutory appeal is hereby denied.

SO ORDERED.

Date: 11-7-01



Jeffrey S. Gulin
Administrative Judge