

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.

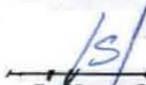
Petitioner's filing constitutes an interlocutory appeal. The Board's regulations clearly enunciate the timeframe for filing a request for interlocutory review: "A motion for certification shall be filed within 10 days after service of the ruling upon the parties." 4 C.F.R. §28.81(c). The Order of September 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