

MICHAEL HORTON v. U.S. General Accounting Office

Docket No. 01-09

Date Issued: March 22, 2004

Cite as: Horton v. GAO, Docket No. 01-09 (3/22/04)

Before: John P. Mahoney, Administrative Judge

Headnotes:

Failure to Prosecute

Show Cause Order

ORDER TO SHOW CAUSE

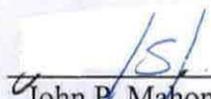
On January 27, 28 and 29, 2004, the Clerk of the Board left telephone messages with Petitioner's counsel inquiring about Petitioner's intentions regarding the above-referenced appeal. A copy of a letter to the Agency from the Board, dated January 30, 2004, responding to an inquiry about the status of the case, was also sent to Petitioner. To date, Petitioner's counsel has not responded to either the phone calls or the letter.

Section 28.24(b) of the Board's regulations states that "[i]f a party fails to prosecute or defend a petition, the administrative judge may dismiss the action with prejudice or rule for the petitioner." While Petitioner timely noticed his appeal from the initial decision, he has failed to prosecute his appeal by filing a supporting brief, as required under 4 C.F.R. §28.87(c). As stated above, Petitioner's deadline for filing his supporting appeal brief was January 16, 2004. It is now more than 60 days past the filing deadline and no such brief has been filed.

Accordingly, Petitioner is hereby ORDERED to show cause why his appeal should not be dismissed with prejudice for failure to prosecute. Petitioner's written response to this order must be received by the Board **by 4:00 pm on April 5, 2004**. Failure to do so will result in dismissal of the appeal with prejudice.

SO ORDERED.

Date: 3-22-04



John P. Mahoney
Administrative Judge