

MICHAEL HORTON v. U.S. General Accounting Office

Docket No. 01-09

Date Issued: September 5, 2002

Cite as: Horton v. GAO, Docket No. 01-09 (9/5/02)

Before: Jeffrey S. Gulin, Administrative Judge

Headnotes:

Motion to Dismiss

ORDER

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

MICHAEL HORTON,)	
)	
Petitioner)	
)	
v.)	Docket No. 01-09
)	
UNITED STATES GENERAL)	
ACCOUNTING OFFICE,)	
)	<u>September 5, 2002</u>
Respondent)	
)	

ORDER

Now pending in the above-captioned matter is Respondent's Motion to Dismiss, or in the Alternative, for Summary Judgment. Petitioner's Opposition to the Motion was filed on August 13, 2002, and the Agency's Reply was filed on August 30, 2002. Because the evidentiary hearing is scheduled to commence on Wednesday, September 18, 2002, and pre-trial submissions are due on Monday, September 9, 2002, the undersigned Administrative Judge hereby rules on the Motion so that the parties may proceed to prepare for trial. An explanatory Memorandum will follow.

Upon consideration of the submissions of the parties, and the record herein, it is hereby ordered that Respondent's Motion to Dismiss, or in the Alternative, for Summary Judgment is **denied** as to the claims that GAO Management discriminated against Petitioner and retaliated against him with regard to his job assignment on the "Review of Time and Attendance at GGD" (T&A job). As to the claim that the Agency's Office of Opportunity and Inclusiveness (OOI)

failed to investigate concerns he raised in April 1999 about his assignment to the T&A job, Respondent's Motion to Dismiss is granted. In addition, Respondent's Motion to Dismiss is granted with respect to the challenge to his performance appraisal for his work on that same job from May through August 1999.

SO ORDERED

Date: 9-5-02



Jeffrey S. Gulin
Administrative Judge