

ANDREW MARSHALL, Jr. v. U.S. General Accounting Office

Docket No. 92-04

Date of Decision: August 16, 1993

Cite as: Marshall v. GAO, Docket No. 92-04 (8/16/93)

**Before: Nancy A. McBride, Vice Chair, for the Board; Isabelle R. Capello, Member;
Leroy D. Clark, Member; Paul A. Weinstein, Member**

Headnotes:

Hearing Matters – Pre/Post Hearing

Motions Practice

Motion to Dismiss

Request for Reconsideration

**ORDER – DECISION ON RESPONDENT’S MOTION TO DISMISS PETITIONER’S
REQUEST FOR RECONSIDERATION**

fact, exceeded this limit by five pages and failed to file a motion for leave to file a petition of this length. In view of all the circumstances, dismissal of the Request for Reconsideration is an unacceptably draconian penalty. The Board did not exercise its responsibility to reject a pleading not in conformance with its rules. Moreover, the infraction is a relatively minor one. Finally, Respondent has not indicated how it may have been prejudiced by the infraction, and the Board cannot imagine the nature of any harm or prejudice to Respondent. The Board, therefore, waives the page limitation set forth in 4 C.F.R. §28.9(b) and allows Petitioner to file a 65-page Request for Reconsideration.

We also reject Respondent's contention that the Request for Reconsideration should be dismissed for failing to comply with the requirement of 4 C.F.R. §28.87(b) that objections to the initial decision must be set forth with specific references to the record. The Request for Reconsideration filed by Petitioner sets forth specific objections (Request, page 2), refers to applicable law and regulations (Request, pages 44-45), and is replete with record references. Both parties asked the Board to refer to their post-hearing briefs (Request, page 3; Opposition, page 12). The post-hearing briefs are also replete with record references.

Accordingly, the Respondent's Motion to Dismiss is DENIED.
SO ORDERED.

