



In the Matter of:

**DAVID MARSHALL HIGH,**

**ARB CASE NO. 98-075**

**COMPLAINANT,**

**(ALJ CASE NO. 96-CAA-8)**

**v.**

**DATE: September 1, 1998**

**LOCKHEED MARTIN ENERGY SYSTEMS, INC.;**  
**LOCKHEED MARTIN CORPORATION;**  
**OAK RIDGE OPERATIONS OFFICE; and**  
**U.S. DEPARTMENT OF ENERGY,**

**RESPONDENTS.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

### **ORDER**

On June 18, 1998, the Board issued an order granting Complainant David Marshall High's request for an extension of time in which to file his initial brief and ordering Complainant to file his brief on or before July 15, 1998. On July 22, 1998, in a letter addressed to the Executive Director of the Administrative Review Board, Complainant filed the following motions: a Motion *in Limine* for an order declaring that certain recent Supreme Court decisions are applicable to this case as well to as to other whistleblower cases; a Motion to Supplement the Record; and a motion for "stay," *i.e.*, an extension of the briefing schedule. Respondents Lockheed Martin and the United States Department of Energy have filed oppositions to Complainant's motion in limine and motion to supplement the record, but do not object to a short extension of time for Complainant to file his brief.

The Motion *in limine* is denied. As we recently stated in another case in which counsel for Complainant filed similar motions, *Shelton v. Oak Ridge Nat'l Lab.*, ARB Case No. 98-100, ALJ Case No. 95-CAA-19, Order, Aug. 26, 1998, Complainant can cite and discuss any applicable authority in his brief on the merits. It would not be appropriate for the Board to issue the advisory opinion that Complainant requests divorced from the facts of a specific case.

Complainant's motion to supplement the record with a newspaper article about retaliation and reprisal against Department of Energy employees also is denied. The article, which Complainant attached to his motion, is hearsay, and there is nothing in the article that appears directly relevant to the facts in this case.

Complainant's motion for an extension of time to file his initial brief is granted. We emphasize however, that the briefing schedule in this case was first set in February 1998, and we would look with great disfavor on any attempt by Complainant to further delay briefing. Therefore, any subsequent requests for extensions by Complainant will be denied. Complainant shall file his brief on or before **September 15, 1998**. Respondents may file reply briefs on or before **October 15, 1998**. Complainant may file a rebuttal brief on or before **October 30, 1998**. All the other provisions of the Order Granting Extension of Time and Amending Briefing Schedule of June 18, 1998 shall continue to apply.

**SO ORDERED.**

**PAUL GREENBERG**

Member

**CYNTHIA L. ATTWOOD**

Acting Member