

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

In the Matter of

UNITED STATES DEPARTMENT
OF LABOR

v.

KAWERAK, INC.

Case No. 83-CTA-34

REMAND ORDER

On October 22, 1985, United States Department of Labor Administrative Law Judge (ALJ) C. Richard Avery issued a decision and order denying the Department's motion for continuance and dismissing the case for lack of jurisdiction. The ALJ's decision was based on the interpretation of Section 106(b) of the Comprehensive Employment and Training Act (CETA), 29 U.S.C. § 816(b) (Supp. V 1981), by the United States Court of Appeals for the Ninth Circuit in City of Edmonds v. United States Department of Labor, 749 F.2d 1419 (1984). That decision held that the failure of a Grant Officer to issue a final determination within 120 days from receipt of a complaint or a final audit report was a jurisdictional bar which prevented the Secretary from pursuing a case. The Department appealed the issue of that interpretation to the Supreme Court which, in a unanimous opinion, rejected the Ninth Circuit's interpretation and held that the Secretary does not lose the power to recover misused CETA funds after the expiration of the 120-day period

specified in § 106(b). Brock v. Pierce County, 54 U.S.L.W. 4476 (U.S. May 19, 1986), reversing Pierce County v. United States, 759 F.2d 1398 (9th Cir. 1985).

The ALJ's decision in this case was stayed by my Order of December 2, 1985, pending the decision in Pierce County. Upon consideration of the Court's decision in Pierce County, the stay order IS LIFTED, the October 22, 1985, decision and order of the ALJ IS VACATED, and this case is REMANDED to ALJ Avery for proceedings on the merits.

SO ORDERED.


Secretary of Labor

Dated: JUN 30 1986
Washington, D.C.

CERTIFICATE OF SERVICE

Case Name: . U.S. Department of Labor v. Kawerak, Inc.

Case No. : 83-CTA-34

Document : Remand Order

A copy of the foregoing document was sent to the following persons on JUN 30 1986.

Pam Horton

Certified Mail

Douglas G. Cochennour
Contract/Grant Officer
Dir. Div. of Financial Policy
Audit and Closeout
Employment and Training Admin.
U.S. Department of Labor
601 D Street, N.W.
Washington, D.C. 20213

Robert A. Friel, Esq.
Assoc. Reg. Solicitor
U.S. Department of Labor
8003 Federal Office Bldg.
Seattle, WA 98174

Caleb Pungowiyi, President
Kawerak, Inc.
P.O. Box 948
Nome, AK 99762

Assoc. Solicitor for Employment
and Training Legal Services
U.S. Department of Labor
Room N-2101
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Attn: Harry Sheinfeld, Esq.

David O. Williams, Administrator
Office of Program & Fiscal
Integrity
U.S. Department of Labor - ETA
601 D Street, N.W.
Washington, D.C. 20213

Linda Kdntnier
Office of Debt Management
U.S. Department of Labor - ETA
601 D Street, N.W.
Washington, **D.C.** 20213

Honorable Nahum Litt
OALJ, Suite 700
1111 20th Street, N.W.
Washington, D.C. 20036

Honorable C. Richard Avery
OALJ
304A U.S. Post Office & Courthouse
Cincinnati, OH 45202