

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

In the Matter of)
)
UNITED STATES DEPARTMENT OF LABOR)
)
v.)
)
SITKA COMMUNITY ASSOCIATION)

Case No. 82-CTA-236

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 November 18, 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. Dept. of Labor v. Sitka Community Association

Case No. : 82-CTA-236

Document : Remand Order

A copy of the above-referenced document was sent to the following persons on June 30, 1986.

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