



Issue Date: 27 August 2014

Case Nos: 2014-FRS-00040
2014-FRS-00041

In the Matter of:

JEFFERY D. GIBBS,
Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

CHAD G. QUINLIN,
Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

ORDER DISMISSING COMPLAINTS

This matter arises out of complaints filed by Jeffery D. Gibbs and Chad G. Quinlin (“Complainants”) against Norfolk Southern Railway Company (“Respondent”) under Section 419 of the Federal Rail Safety Act (“FRSA”), 49 U.S.C. § 20109. The FRSA allows a Complainant to file an action in United States District Court if the Department of Labor has not issued a final decision within 210 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant.¹

Complainants filed complaints with the Occupational Safety and Health Administration (“OSHA”) on December 6, 2012. A final determination letter was issued by OSHA on January 9, 2014, dismissing the complaints. Complainants submitted their objections to the Secretary’s Findings on January 13, 2014, and requested a hearing before an administrative law judge.

¹ 49 U.S.C. § 20109(d)(3).

On August 8, 2014, Complainants notified all parties under 49 U.S.C. § 20109(d)(3) and 29 CFR § 1982.114(b) that they intended to file a complaint in United States District Court. This office requested that Complainants submit a signed copy of the District Court complaint. Complainant submitted a signed, proof complaint, on August 26, 2014². The Department of Labor has not issued a final decision within 210 days of the filing of the complaints filed on December 6, 2012. There are no allegations or evidence of record which indicate to me that there has been any delay due to the bad faith of the complainants.

Accordingly, **IT IS HEREBY ORDERED** that the complaints in the above-captioned matter be, and the same hereby are, **DISMISSED**.

IT IS FURTHER ORDERED that the hearing scheduled for October 7, 2014, in Louisville, Kentucky, is **CANCELLED**.

SO ORDERED.

JOSEPH E. KANE
Administrative Law Judge

² *Jeffrey D. Gibbs and Chad G. Quinlin v. Norfolk Southern Railway Company, et al.*, Case No.: 3:14-CV-587-H (W.D. KY, filed August 22, 2014).