



Issue Date: 16 April 2019

CASE NO.: 2018-FRS-00040

In the Matter of:

JOSEPH L. DAVIS,
Complainant,

v.

CSX TRANSPORTATION, INC.,
Respondent.

**ORDER APPROVING WITHDRAWAL OF OBJECTIONS,
DISMISSING COMPLAINT AND CANCELLING HEARING**

This proceeding arose from a claim of whistleblower protection under the Federal Railroad Safety Act (FRSA), as amended, 49 U.S.C. § 20109 (2013), and the regulations promulgated thereunder at 29 C.F.R. Part 1982. This matter is scheduled for hearing in Toledo, Ohio on May 30, 2019.

The Complaint in this matter was filed on October 5, 2017. OSHA issued its findings on February 12, 2018 dismissing the Complaint, and the Complainant served his objections to the OSHA findings on the Chief Administrative Law Judge. By Notice of Hearing and Prehearing Order issued November 19, 2018, I scheduled the hearing in this matter for April 9, 2019. By order issued December 18, 2018, I granted the parties' joint motion for continuance and rescheduled the hearing for May 30, 2019. On April 8, 2019, the Complainant filed a Motion to Withdraw Complainant's Complaint, stating that a settlement reached in a Federal Employers Liability Act case pending in the Northern District of Ohio includes resolution of the issues in this matter. I construe the Complainant's motion to withdraw the Complaint as a withdrawal of the Complainant's objections to the Secretary's Findings and Order dated February 12, 2018.

The regulations at 29 C.F.R. 1982.111(c) provide: "At any time before the Assistant Secretary's findings and/or order become final, a party may withdraw its objections to the Assistant Secretary's findings and/or order by filing a written withdrawal with the ALJ. If the case is on review with the ARB, a party may withdraw its petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to

withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary.” As no final decision has been issued in this matter, upon review of the record, and for good cause shown, the Complainant’s request to withdraw his objections is hereby **GRANTED**.

THEREFORE, the hearing in this matter scheduled for May 30, 2019 is hereby **CANCELLED**. Consistent with the regulations, the Secretary’s findings are affirmed in their entirety and the above captioned matter is hereby **DISMISSED**.

SO ORDERED.

LARRY A. TEMIN
ADMINISTRATIVE LAW JUDGE