

U.S. Department of Labor

Office of Administrative Law Judges
5100 Village Walk, Suite 200
Covington, LA 70433



(985) 809-5173
(985) 893-7351 (Fax)

Issue Date: 14 August 2019

CASE NO.: 2019-FRS-00009

IN THE MATTER OF

TODD L. PELKEY,
Complainant

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent

**ORDER DISMISSING CLAIM BECAUSE COMPLAINANT HAS FILED A
COMPLAINT IN THE U.S. DISTRICT COURT**

This proceeding arises from a claim of whistleblower protection under the Federal Rail Safety Act (FRSA), as amended. The statute and implementing regulations provide that a complainant may file a complaint in the United States District Court if the Secretary of Labor has not issued a final decision within 210 days of the filing of a complaint with OSHA, and there is no showing that such delay is due to the bad faith of the complainant. More than 210 days have elapsed since the complaint was filed with the Department of Labor in this case. On August 12, 2019, Complainant notified the Court that he has filed a Complaint in United States District Court based on his FRSA claim against the Respondent. No objection to the requested dismissal has been filed. Accordingly, I find that the claim should be, and hereby is, **DISMISSED WITH PREJUDICE.**

SO ORDERED.

LARRY W. PRICE
ADMINISTRATIVE LAW JUDGE