

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 10 March 2020

ALJ NO.: 2019-FRS-00078

In the Matter of:

JEREMIAH POOLE,
Complainant,

v.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

ORDER DISMISSING CASE WITH PREJUDICE

This proceeding arises from a complaint of discrimination filed under the Federal Rail Safety Act (“the FRSA”), 49 U.S.C. § 20109, as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the “9/11 Act”), Pub. L. 110-53, 121 Stat 266 (Aug. 3, 2007). On February 19, 2020, Counsel for Complainant indicated that the claim had been removed to federal court and attached a file-stamped copy of the complaint pending in United States District Court. On March 5, 2020, I held a telephonic conference on the record regarding the request.

Removal under the FRSA is governed by 49 U.S.C. § 20109(d)(3) and 29 C.F.R. § 1982.114. As Complainant has filed a complaint in District Court based on the same facts that constituted his action before the Office of Administrative Law Judges, jurisdiction in the latter has been divested. *See Stone v. Duke Energy Corp.*, 432 F.3d 320, 322-23 (5th Cir. 2005). For these reasons and the reasons stated on the record during our March 5, 2020, conference, I find that Jurisdiction now lies with the U.S. District Court and accordingly, it is ORDERED that:

- (1) The Complaint of Jeremiah J. Poole against Union Pacific Railroad Company is **DISMISSED WITH PREJUDICE** from refileing before the Office of Administrative Law Judges.

SO ORDERED.

JONATHAN C. CALIANOS
Acting District Chief Administrative Law Judge

Boston, Massachusetts