

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

Issue Date: 18 December 2020

ALJ NO.: 2020-FRS-00066

In the Matter of:

CODY STEVER,
Complainant,

v.

CSX TRANSPORTATION, INC.,
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 December 7, 2020, 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.

Removal under FRS is governed by 49 U.S.C. § 20109(d)(3) and 29 C.F.R. § 1982.114. As the 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). Jurisdiction now lies with the U.S. District Court and accordingly, it is ORDERED that:

(1) The Complaint of Cody Stever against CSX Transportation, Inc. is DISMISSED
WITH PREJUDICE from refiling before the Office of Administrative Law Judges.

SO ORDERED.

JONATHAN C. CALIANOS
District Chief Administrative Law Judge

Boston, Massachusetts