

U.S. Department of Labor

Office of Administrative Law Judges
2 Executive Campus, Suite 450
Cherry Hill, NJ 08002

(856) 486-3800
(856) 486-3806 (FAX)



Issue Date: 19 September 2012

Case No.: 2012-SOX-00033

In the Matter of

JASMINE ANDREWS-COLIBRI

Complainant

v.

AT&T MOBILITY, LLC

Respondent

DISMISSAL ORDER

This case has been brought under the employee protection provisions of Public Law 107-204, § 806 of the Sarbanes-Oxley Act of 2002 (“SOX”) as amended, 18 U.S.C. § 1514A. Implementing regulations for SOX are found at 29 C.F.R. Part 1980.

When a party withdraws his or her objection to the Secretary’s findings, 29 C.F.R. §1980.111 is applicable:

(c) At any time before the findings or order become final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the Board. The judge or the Board, as the case may be, will determine whether to approve the withdrawal. If the objections are withdrawn because of settlement, the settlement will be approved in accordance with paragraph (d) of this section.

If there are no objections to the Secretary’s findings, such findings “shall become the final decision of the Secretary, not subject to judicial review.” 29 C.F.R. § 1980.106(b)(2).

On July 10, 2012, the Regional Administrator, acting on behalf of the Secretary, issued findings which deemed the Complainant’s complaint to have no merit and dismissed this matter. Secretary’s Findings, July 10, 2012, at 3.

On August 6, 2012, Respondents’ counsel filed with the Office of Administrative Law Judges a “letter constitut[ing] the objections of Respondents to the Regional Administrator’s July 10, 2012 findings” This letter stated that Respondents object to a sentence in the Secretary Finding’s that stated certain individuals are officers of one of the Respondents and are “therefore covered named-parties under SOX.” Respondents’ counsel’s letter at 1. Counsel asserts that the

certain individuals are “managers, but not officers” of one of the Respondents. Counsel states that a concern for how this finding may be used in future proceedings prompted this objection. Id. Lastly, the August 6, 2012 letter states that the Respondents do not seek a hearing on this objection and do not object to the “remainder of the Administrator’s findings.” Id.

On August 13, 2012, this matter was assigned to me. I note that the Complainant has not (1) filed any response to the Respondents’ objections to the Secretary’s findings, (2) objected to the Secretary’s findings, or (3) requested a hearing.

I issued an Order on August 24, 2012, directing the Respondent-Employer to show cause as to why its counsel’s August 6, 2012 letter objecting to the Secretary’s findings should not construed as a request for hearing and partial summary decision. The Respondents, through counsel, filed a timely response by letter dated September 13, 2012. In that letter, Respondent’s counsel states the following:

Counsel did not request a hearing, and [does] not believe a hearing is necessary. Counsel’s objections were made for a limited purpose, and were very narrow in scope. Counsel believes that, under the circumstances, a hearing or even a partial summary judgment briefing would be an inefficient use of the time and resources of the parties and the tribunal. ***Accordingly, counsel withdraws its July 31, 2012 objections to the Secretary’s findings and accepts the Secretary’s July 10, 2012 findings in their entirety.***

Respondents’ counsel’s letter, September 13, 2012 (emphasis added).

As noted above, the applicable regulations permit a party to withdraw his or her objections to the Secretary’s findings by providing a written request, and I find Respondent, through its counsel, has done so here. Withdrawal of the objections has the effect of reinstating the determination of the Secretary.

I approve the Respondent’s withdrawal of its objections to the Secretary’s findings. Therefore, those findings will constitute the final Order of the Secretary, and the instant matter will be dismissed with prejudice. 29 C.F.R. § 1980.106(b)(2).

ORDER

IT IS HEREBY ORDERED that Respondent's withdrawal of its objections is APPROVED, those objections are WITHDRAWN, and the claim is DISMISSED WITH PREJUDICE.

LYSTRA A. HARRIS
Administrative Law Judge

Cherry Hill, New Jersey