

U.S. Department of Labor

Office of Administrative Law Judges
800 K Street, NW, Suite 400-N
Washington, DC 20001-8002

(202) 693-7300
(202) 693-7365 (FAX)



Issue Date: 22 April 2016

Case No.: 2015-SPA-00003

IN THE MATTER OF:

**JEFFREY B. HAGOPIAN,
Complainant**

v.

**NOBLE DRILLING SERVICES, INC.
Respondent**

Appearances:

**Gregg M. Rosenberg, Esq.
Rosenberg Sprovach
Houston, Texas
For the Complainant**

**Amy Halevy, Esq.
Bracewell & Giuliani, LLP
Houston, Texas
For the Respondent**

ORDER OF DISMISSAL

This proceeding arises under the employee protection provisions of the Seaman's Protection Act ("SPA"), 46 U.S.C. 2114, as amended by Section 611 of the Coast Guard Authorization Act of 2010, Pub. L. No. 111-281, 124 Stat. 2905. Complainant filed a complaint with the Secretary of Labor on August 13, 2015, alleging Respondent terminated his employment on March 31, 2015 in violation of the SPA because he reported that his co-captain instructed crew members to lie to Coast Guard inspectors during a routine safety inspection of a vessel. On August 19, 2015, the Regional Supervisory Investigator of the Occupational Safety and Health Administration ("OSHA") dismissed the complaint, finding that making an "internal complaint about a Captain's request to an employee that he lie to the Coast Guard during an inspection" does not constitute protected activity under the Act. Complainant appealed to this

office and the matter was assigned to the undersigned for hearing.¹ By Order issued April 14, 2016, I cancelled a June 28, 2016 hearing in Miami, Florida, after Complainant filed a “Notice of Dismissal Without Prejudice” exercising his right to proceed in federal court.² However, as Complainant had not yet filed his action, I indicated I would not dismiss this case until receiving notice that Complainant had actually exercised his right to pursue his claim in federal district court.³ On April 20, 2016, Complainant advised this Court that he has filed an action in the United States District Court for the Southern District of Texas, and attached a copy of the complaint.

Order

Accordingly, it is hereby ORDERED that the complaint filed by Jeffrey B. Hagopian on August 13, 2015 under the Seaman’s Protection Act is DISMISSED.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

¹ The case was originally set for hearing on April 14, 2016 and continued to June 28, 2016 upon the parties’ *Joint Motion for Continuance of Deadlines and Hearing Date*.

² Under the enforcement provisions of the Act, if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint, and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. 46 U.S.C. 2114(b); 49 U.S.C. § 31105(c); 29 C.F.R. 1986.114(a).

³ *See, e.g., Stone v. Duke Energy Corp*, 432 F.3d 320 (4th Cir. 2005)(Sarbanes-Oxley case)(United States District Court does not assume jurisdiction until a complaint is filed). 29 C.F.R. § 1982.114(b).