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U.S. DEPARTMENT OF LABOR

OFFICE OF ADMINISTRATIVE LAW JUDGES

Suite 700-1111 20th Street, N.W.

Washington, D.C. 20036



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 In the Matter of :
 :
 JAMES D. ROSE :
 Complainant :
 :
 vs. :
 :
 VIRGINIA EMPLOYMENT COMMISSION :
 Respondent :
 :
 and :
 :
 U.S. DEPARTMENT OF LABOR :
 Party In Interest :

Case No. 80-WPA-2

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James D. Rose
 Pro Se

Robert J. Barry, Esquire
 For the Respondent

James Pagliaro, Esquire
 For the Party In Interest

Before: PHILIP J. LESSER
 Administrative Law Judge

ORDER OF DISMISSAL

This proceeding under the Wagner-Peyser Act of 1933, 29 U.S.C. §49 et seq., and 38 U.S.C. Chapters 41 and 42, and Regulations of the Secretary of Labor issued thereunder, was initiated by the Complainant's request for a formal hearing following administrative denials of relief for alleged discrimination against him in his employment.

On May 20, 1981, the Respondent filed a Motion To Dismiss this proceeding. In its Motion the Respondent represented that this Complainant had previously filed suit in the United States District Court for the Eastern District of Virginia (Civil Action File No. 80-0759-R) in which he sought the same relief against this Respondent which he is seeking in this proceeding. In support of its Motion the Respondent submitted a certified copy of a Judgment dated April 23, 1981 stating that a verdict had been entered in that action against the Complainant and in favor of the Respondent. The Respondent asserts in its Motion that the Judgment in that action acts as a bar to the present proceeding based upon the doctrines of res judicata and collateral estoppel.

On July 17, 1981 I issued an Order To Show Cause on or before August 17, 1981 why the Respondent's Motion to Dismiss should not be granted. On August 9, 1981 the Complainant, on his own behalf, sent a letter to this office responding to the Order To Show Cause.

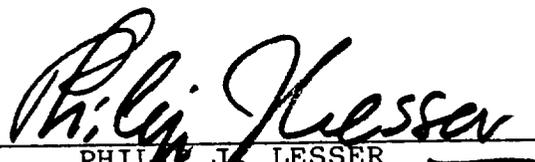
Complainant's response does not address the issues raised by Respondent's Motion To Dismiss. On the contrary, it is clear from Complainant's letter of August 9, 1981 that he wants a second chance to present his case, this time before a Federal agency, without a jury, and with some new witnesses, and perhaps a new attorney.

Public policy declares "...that there be an end of litigation; that those who have contested an issue shall be bound by the result of the contest; and that matters once tried shall be considered forever settled between the parties." Baldwin v. Iowa State Traveling Men's Ass'n, 283 U.S. 522, 525, 51 St.Ct. 517 (1930).

Clearly, the matters which the Complainant raises here have already been adjudicated by the United States District Court. The Complainant does not have the right to relitigate his case here.

For the foregoing reasons, it is hereby

ORDERED that this case is dismissed with prejudice.


PHILIP J. LESSER
Administrative Law Judge

Dated: September 11, 1981
Washington, D.C.
PJL/rmw

SERVICE SHEET

Copies of the foregoing ORDER OF DISMISSAL

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Dated: SEP 11 1981