

**U.S. Department of Labor**

Administrative Review Board  
200 Constitution Ave. NW  
Washington, DC 20210-0001



**IN THE MATTER OF:**

**ROBERT KREB,**

**ARB CASE NO. 2024-0023**

**COMPLAINANT,**

**ALJ CASE NO. 2023-AIR-00008**

**ALJ SCOTT R. MORRIS**

**v.**

**DATE: March 27, 2024**

**INTEGRA AVIATION, LLC D/B/A  
APOLLO MEDFLIGHT, LLC,**

**RESPONDENT.**

**Before HARTHILL, Chief Administrative Appeals Judge, and WARREN,  
Administrative Appeals Judge**

**ORDER DENYING PETITION FOR INTERLOCUTORY REVIEW**

WARREN, Administrative Appeals Judge:

This case arises under the employee protection provision of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21).<sup>1</sup> On February 5, 2024, Robert Kreb (Complainant) filed a petition before the Administrative Review Board (Board) seeking interlocutory review of the Administrative Law Judge's (ALJ) January 24, 2024 Omnibus Order: (1) Denying Complainant's Request to Join Additional Parties to this Complaint; and (2) Denying his "Joint Motion to Stay and Amend Discovery Order and to Compel Counsel to Provide Subpoena Evidence."<sup>2</sup>

Subsequent to Complainant's petition for interlocutory review, on February 16, 2024, the ALJ issued a Decision and Order Dismissing Complaint (D. & O.) with

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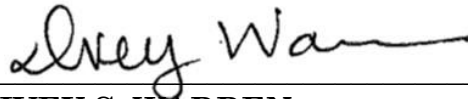
<sup>1</sup> 49 U.S.C. § 42121. AIR 21's implementing regulations are found at 29 C.F.R. Part 1979 (2023).

<sup>2</sup> Complainant Robert Kreb's Petition for Interlocutory Review at 1.

prejudice.<sup>3</sup> The ALJ found that Complainant repeatedly failed to comply with discovery orders despite being “warned on at least five separate occasions that he was required to comply with discovery.”<sup>4</sup> On March 1, 2024, Complainant filed a petition for review “of the full administrative record of the whistleblower retaliation investigation” with the Board, which encompasses the issues Complainant raised in his petition for interlocutory review.<sup>5</sup> The Board assigned Complainant’s petition for review case number ARB No. 2024-0027 and accepted it for review on March 26, 2024.

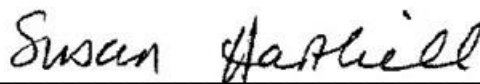
The Board’s delegated authority includes the discretionary consideration and disposition of interlocutory appeals “in exceptional circumstances, provided such review is not prohibited by statute.”<sup>6</sup> Here, the ALJ’s dismissal of Complainant’s complaint and Complainant’s subsequent petition for review of that case to the Board has rendered this interlocutory appeal moot.<sup>7</sup> Therefore, Complainant’s petition for interlocutory review is **DENIED** and ARB No. 2024-0023 is **DISMISSED**.

**SO ORDERED.**




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**IVEY S. WARREN**  
**Administrative Appeals Judge**




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**SUSAN HARTHILL**  
**Chief Administrative Appeals Judge**

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<sup>3</sup> D. & O. at 1, 11-12.

<sup>4</sup> *Id.* at 10.

<sup>5</sup> Complainant’s Petition for Review at 1.

<sup>6</sup> Secretary’s Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 85 Fed. Reg. 13186 (Mar. 6, 2020).

<sup>7</sup> *Powers v. Pinnacle Airlines, Inc.*, ARB No. 2004-0066, ALJ No. 2004-AIR-00006, slip op. at 1-2 (ARB July 24, 2004) (dismissing interlocutory appeal as moot because the ALJ dismissed the case and the complainant appealed to the Board on the merits).