

U.S. Department of Labor

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



IN THE MATTER OF:

ALYCE ANDERSON,

ARB CASE NO. 2024-0055

COMPLAINANT,

ALJ CASE NO. 2023-CAR-00001

v.

DISTRICT CHIEF

ALJ PAUL C. JOHNSON, JR.

UNITED STATES POSTAL SERVICE,

DATE: January 7, 2025

RESPONDENT.

Appearances:

For the Complainant:

Alyce Anderson; *Pro Se*; South Bend, Indiana

For the Respondent:

Heather L. McDermott, Esq.; *United States Postal Service*; Chicago, Illinois

Before WARREN, Acting Chief Administrative Appeals Judge, and ROLFE, Administrative Appeals Judge

DECISION AND ORDER

PER CURIAM:

Alyce Anderson (Complainant) filed a complaint with the United States Department of Labor's Occupational Safety and Health Administration (OSHA) on March 16, 2023. Anderson alleged that her employer, the United States Postal Service (Respondent), violated the employee protection provisions of the Criminal Antitrust Anti-Retaliation Act (CAARA), when it retaliated against her because of

actions she took in relation to grievances and Equal Employment Opportunity (EEO) complaints she had filed against Respondent.¹

CAARA prohibits employers from discriminating against employees because they report violations of criminal anti-trust laws.² A Department of Labor (DOL) Administrative Law Judge (ALJ) granted Respondent's motion for summary decision and dismissed Complainant's complaint because she failed to raise a genuine issue of material fact that she engaged in CAARA protected activity that would entitle her to a hearing.

We review the ALJ's order granting summary decision de novo,³ viewing the evidence in the light most favorable to Complainant (the non-moving party) to determine whether any genuine issues of material fact exist and whether Respondent was entitled to summary decision as a matter of law.⁴

Protected activity under CAARA relates to reports of violations of the antitrust laws, reports of violations of other criminal laws committed in conjunction with potential violations of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws, and other actions taken with respect to such violations.⁵ Antitrust laws relate to activity described in 15 U.S.C. 1 and 3, which make illegal contracts in the form of trust or otherwise, or conspiracy, in restraint of trade of commerce among and

¹ 15 U.S.C. § 7a-3, as implemented by the regulations at 29 C.F.R. Part 1991 (2024).

² To succeed on a CAARA claim, a complainant must prove that (1) they engaged in protected activity; (2) Respondent took an adverse action against them; and (3) the protected activity contributed to the adverse action being taken. 15 U.S.C. §7a-3; 29 C.F.R. §§ 1991.102, 1991.109 (a) ("A determination that a violation has occurred may be made only if the complainant has demonstrated by a preponderance of the evidence that protected activity was a contributing factor in the adverse action alleged in the complaint.").

³ *Bauche v. Masimo Corp.*, ARB Nos. 2023-0016, -0031, ALJ Nos. 2022-SOX-00010, -00026, slip op. at 6 (ARB July 31, 2024) ("The ARB reviews an ALJ's grant of summary decision de novo under the same standard the ALJ applies."); *Kirschmann v. Hampton Roads Transit*, ARB No. 2023-0002, ALJ No. 2021-NTS-00006, slip op. at 6 (ARB Feb. 14, 2024) (same principle).

⁴ *Kirschmann*, ARB No. 2023-0002, slip op. at 6 ("summary decision is appropriate if "the pleadings, affidavits, [and other discovery materials] show that there is no genuine issue as to any material fact" and a party therefore is entitled to judgment as a matter of law").

⁵ 15 U.S.C. § 7a-3(a)(1).

between the states of the United States, foreign nations, Territories of the United States, and the District of Columbia.

Before the ALJ, Complainant alleged that she suffered retaliation for (1) filing two EEO complaints, (2) filing two union grievances, and (3) declining a settlement offer in an EEO claim.⁶ But Complainant failed to identify how her activities involve criminal antitrust laws under CAARA, and the ALJ correctly found that they did not. Likewise, Complainant's briefs filed with the Board solely relate to the grievance and EEO complaints she initiated after she was denied a reassignment request and her subsequent actions with respect to them. They similarly make no mention of criminal antitrust activity.

Before the ALJ and the Board, Complainant thus has failed to present any evidence or any argument explaining how her grievance or EEO-related activities could constitute protected activities under CAARA. Her arguments instead focus exclusively on the adverse actions she alleges Respondent took against her.⁷ Reviewing Complainant's allegations independently and in the light most favorable to her, we thus agree with the ALJ that no facts support a claim that Complainant engaged in CAARA protected activity.

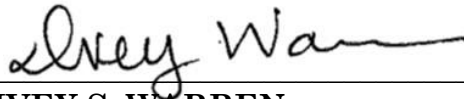
⁶ ALJ Order at 4.

⁷ For example, Complainant asserts that the ALJ erred in granting summary decision in part because she did respond to the ALJ's Order to Show Cause and gave six "examples of CAARA 15 U.S.C. [§] 7a-3 adverse actions and retaliation committed by the United States Postal Service" Complainant's Opening Brief at 13. She never asserts, however, that she explained to the ALJ, or explains to the Board, how or why her EEO activities are protected activities under the CAARA.

CONCLUSION

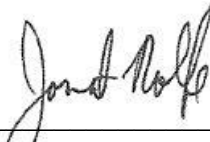
The ALJ's decision correctly found no material issues of fact exist, and that Respondent is entitled to summary decision as a matter of law. We therefore **AFFIRM** the ALJ's order granting Respondent's motion for summary decision and **DENY** Complainant's complaint.

SO ORDERED.



IVEY S. WARREN

Acting Chief Administrative Appeals Judge



JONATHAN ROLFE

Administrative Appeals Judge