



IN THE MATTER OF:

CHRISTOPHER A. WILLIAMS, JR., ARB CASE NO. 2020-0064
COMPLAINANT, ALJ CASE NO. 2020-SOX-00006
DATE: October 29, 2020

v.

FEDEX,
RESPONDENT.

ORDER DISMISSING COMPLAINT

On October 4, 2019, Christopher Williams, Jr. filed a complaint with the Occupational Safety and Health Administration (OSHA) alleging that he was retaliated against by his employer, FedEx for SOX-protected activity.¹ After investigating Williams' complaint, the Occupational Safety and Health Administration (OSHA) dismissed the complaint. Williams objected to OSHA's findings and requested a hearing before a Department of Labor Administrative Law Judge (ALJ). The ALJ issued an Order Dismissing Complaint based on Cross Summary Decision Motions on August 26, 2020. Complainant filed a timely petition for review with the Administrative Review Board (the Board).

On October 13, 2020, Complainant filed a Notice with the Board indicating that on September 30, 2020, he had filed an original action pursuant to 29 C.F.R. § 1980.114, with the United States District Court for the Eastern District of New York, seeking de novo review. Complainant filed his action more than 210 days after he filed his complaint with OSHA.

¹ 18 U.S.C. § 1514A (2010) (SOX), and implementing regulations, 29 C.F.R. Part 1980 (2020).

Since Complainant has chosen to proceed in district court, the Department of Labor no longer has jurisdiction over his case. As the statute provides, the “district court of the United States . . . shall have jurisdiction over such an action.”² We therefore **DISMISS** this case on the ground that Complainant has removed it to district court.

FOR THE ADMINISTRATIVE REVIEW BOARD:



Aubrey Gordon
General Counsel

² 18 U.S.C. § 1514A(b)(1)(B); see also *Kelly v. Sonic Auto.*, ARB No. 2008-0027, ALJ No. 2008-SOX-00003, slip op. at 4 (ARB Dec. 17, 2008) (the filing of Kelly’s SOX complaint in district court deprived the Department of Labor of jurisdiction over his complaint).