

U.S. Department of Labor

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



IN THE MATTER OF:

MICHAEL D. LEAR,

ARB CASE NO. 2024-0045

COMPLAINANT,

ALJ CASE NO. 2023-STA-00061

ALJ MONICA MARKLEY

v.

DATE: August 11, 2025

GFL ENVIRONMENTAL,

RESPONDENT.

Appearances:

For the Complainant:

Michael D. Lear, Esq.; *Pro Se*; Covington, Georgia

For the Respondent:

Lehoan T. Pham, Esq., and Karen M. Charlson, Esq.; *Littler Mendelson, P.C.*; Minneapolis, Minnesota

Before JOHNSON, Chief Administrative Appeals Judge, and THOMPSON and KAPLAN, Administrative Appeals Judges

ORDER DENYING RECONSIDERATION

This case arises from a complaint filed by Complainant Michael D. Lear against his employer, Respondent GFL Environmental, alleging retaliation in violation of the whistleblower protections of the Surface Transportation Assistance Act of 1982 (STAA) and its implementing regulations.¹ Complainant appealed the Administrative Law Judge's (ALJ's) May 7, 2024 Order of Dismissal and Order Cancelling Hearing (Order of Dismissal) to the Administrative Review Board (ARB or Board). On May 19, 2025, the Board issued a Decision and Order affirming the

¹ 49 U.S.C. § 31105(a); 29 C.F.R. Part 1978 (2025).

dismissal on the basis it was not the result of an abuse of the ALJ's discretion. On June 2, 2025, Complainant filed a motion for reconsideration with the Board and on June 16, 2025, he filed an amended motion for reconsideration. On July 19, 2025, Complainant filed with the Board a document entitled "Petition for Review of the Final Decision of the Administrative Review Board" which was addressed to the Court of Appeals for the Eleventh Circuit. He then filed the petition for review with the Eleventh Circuit on July 21, 2025.

The Board retains jurisdiction to decide Complainant's motion for reconsideration despite his subsequent circuit court appeal of the Board's May 19, 2025 Decision and Order. The Board "has the inherent and implied authority to hear motions for reconsideration" barring a statutory or regulatory limitation.² Additionally, a motion for reconsideration filed within a reasonable time from the date of the Board's decision "effectively renders the agency's initial decision non-final until it is ruled upon."³

The STAA and its implementing regulations do not limit or address the Board's ability to reconsider its decision in a STAA matter.⁴ We may thus exercise our inherent and implied authority to decide Complainant's motion for reconsideration.⁵ And, as Complainant's motion and amended motion for reconsideration were filed within a reasonable time following the issuance of our May 19, 2025 Decision and Order, they tolled the appeal deadline and rendered that decision non-final.⁶

The Board has established four non-exclusive grounds for reconsidering its decision. The inquiry is whether the moving party has demonstrated:

² *Johnson v. U.S. Dep't of Lab.*, 814 F. App'x 490, 493 (11th Cir. 2020) (citing *Ala. Env't Council v. Adm'r, U.S. E.P.A.*, 711 F.3d 1277, 1290 (11th Cir. 2013) (stating administrative agencies possess an implied authority "to reconsider and rectify errors even though the applicable statute and regulations do not expressly provide for such reconsideration.")); *see also Macktal v. Chao*, 286 F.3d 822, 825-26 (5th Cir. 2002) ("[I]t is generally accepted that in the absence of a specific statutory limitation, an administrative agency has the inherent authority to reconsider its decisions.") (citations omitted).

³ *Johnson*, 814 F. App'x at 493-94 (citing *Lewis v. U.S. Dep't of Lab., Admin. Rev. Bd.*, 368 F. App'x 20, 29 (11th Cir. 2010) (finding a "motion for reconsideration, filed within a reasonable time after the order, was effective to toll the appeal period.")).

⁴ 49 U.S.C. § 31105; 29 C.F.R. Part 1978 (2025).

⁵ *See Johnson*, 814 F. App'x at 493.

⁶ *See id.* at 493-94.

(i) material differences in fact or law from that presented to the Board of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the Board's decision; (iii) a change in the law after the Board's decision, and (iv) failure to consider material facts presented to the Board before its decision.^[7]

Our review indicates Complainant's motion and amended motion for reconsideration do not meet the above criteria nor do they present any other basis for granting reconsideration.

Accordingly, Complainant's motion for reconsideration is denied and our May 19, 2025 decision in Complainant's STAA appeal is final.

SO ORDERED.

RANDEL K. JOHNSON
Chief Administrative Appeals Judge

ANGELA W. THOMPSON
Administrative Appeals Judge

ELLIOT M. KAPLAN
Administrative Appeals Judge

⁷ *Friedman v. Columbia Univ.*, ARB No. 2012-0089, ALJ No. 2012-ERA-00008, slip op. at 2 (ARB Jan. 22, 2014) (Order Denying Reconsideration) (citation omitted).