

U.S. Department of Labor

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



IN THE MATTER OF:

SERGIO B. ROBLES,

ARB CASE NO. 2025-0058

COMPLAINANT,

ALJ CASE NO. 2025-STA-00050,

-00051, -00052

v.

ALJ DREW A. SWANK

MR. BULTS, INC., TEAMSTERS 731,
and WASTE MANAGEMENT,

DATE: March 5, 2026

RESPONDENTS.

Appearances:

For the Complainant:

Sergio B. Robles; *Pro Se*; Rockford, Illinois

For the Respondent Mr. Bults, Inc.:

Tom H. Luetkemeyer, Esq.; *Hinshaw & Culbertson LLP*; Chicago, Illinois

For the Respondent Teamsters 731:

Rachel R. Rekowski, Esq.; *Herzfeld, Suetholz, Gastel, Leniski & Wall, PLLC*; Cincinnati, Ohio

For the Respondent Waste Management:

John W. Stapleton, Esq.; *Fisher & Phillips LLP*; Atlanta, Georgia

Before KAPLAN and KIKO, Administrative Appeals Judges

ORDER DENYING RECONSIDERATION

This case arises under the Surface Transportation Assistance Act of 1982 (STAA), as amended, and its implementing regulations.¹ Complainant Sergio B.

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

Robles filed whistleblower complaints with the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) alleging that Respondents Mr. Bult’s, Inc., Teamsters 731, and Waste Management unlawfully retaliated against him for engaging in STAA protected activity.² OSHA dismissed the complaints as untimely. Complainant objected to OSHA’s determination and the case was assigned to an Administrative Law Judge (ALJ). On May 7, 2025, the ALJ dismissed the complaints as untimely.³ Complainant petitioned the Administrative Review Board (Board) for review of the ALJ’s Order. On February 20, 2026, the Board dismissed the complaint.

On February 23, 2026, Complainant filed a Motion for Reconsideration. Complainant contends that the Board failed to consider the whole record, misapplied equitable tolling, failed to apply the continuing violations doctrine, and failed to address Respondent Mr. Bults Inc.’s lack of participation.⁴

On February 25, 2026, Complainant also filed a Notice of Filing Requests for Amicus Intervention and Executive Oversight, notifying the Board that he requested amicus curiae intervention from the Office of Special Counsel, the Office of Inspector General, and the Office of the Solicitor. On the Board’s website at <https://www.dol.gov/agencies/arb/resources/amicus-briefs>, the Board states that “[e]xcept as otherwise provided by statute or regulation, the [Board] accepts amicus briefs only in cases in which it has issued an order allowing such filings.” The STAA regulations provide that the Assistant Secretary for OSHA and the Federal Motor Carrier Safety Administration (FMCSA) may participate as amicus curiae at any stage of the proceeding.⁵ Here, the Board has not issued an order allowing amicus briefs, and neither the Assistant Secretary for OSHA nor the FMCSA have filed an amicus brief.

The Board will reconsider a decision and order in certain circumstances. These circumstances include whether the movant has demonstrated: (i) material differences in fact or law from those 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, or (iv) failure to consider material facts presented to the Board before its

² Order Dismissing Claim Pursuant to 49 U.S.C. § 31105(b)(1) at 1.

³ *Id.*

⁴ Motion for Reconsideration at 2.

⁵ 29 C.F.R. § 1978.108.

decision.⁶ The foregoing circumstances are not exclusive, and a complainant's inability to satisfy one is not necessarily fatal to reconsideration.⁷

Complainant asserts that the Board should reconsider the decision for several reasons. First, Complainant contends that the Board failed consider the following facts: (1) Respondent Teamsters 731's refusal to pursue his grievance to arbitration; (2) Respondents Teamsters 731 and Mr. Bults Inc.'s failure to disclose the updated collective bargaining agreement (CBA) until January 2, 2025; (3) Respondent Mr. Bults, Inc.'s refusal to disclose itemized wage documents necessary for the calculations of unpaid wages and an ongoing interference with wage claim processing; (4) Respondent Mr. Bults Inc.'s failure to comply with OALJ's initial disclosure directives and the Board's Notice of Appeal Acceptance, Electronic Filing Requirements, and Briefing Order (Briefing Order); and (5) Respondents' collective concealment of surveillance footage from Waste Management facilities.⁸ Complainant also contends the continuing violations doctrine applies because he alleges that Respondent Teamsters 731 declining to take his grievance to arbitration combined with the withholding of the CBA and other evidence constitutes a pattern of obstruction that is anchored within the limitations period.⁹ Complainant further asserts that Respondent Mr. Bults, Inc.'s failure to file a response brief should have resulted in sanctions.¹⁰

Complainant's motion does not fall within any of the first three grounds for reconsideration. Rather, he appears to rely solely on a claimed failure to consider material facts. However, because Complainant's motion repeats arguments that he had already raised in his original appeal, we will not address them again on reconsideration.¹¹

⁶ *Heyward v. Benore Logistic Sys., Inc.*, ARB No. 2021-0023, ALJ No. 2020-STA-001117, slip op. at 2 (ARB Sept. 7, 2021) (Order Denying Reconsideration) (citation omitted).

⁷ *DeVoe v. Premier Trucking, LLC*, ARB No. 2025-0056, ALJ No. 2024-STA-00090, slip op. at 3 (ARB June 17, 2025) (citation omitted).

⁸ Motion for Reconsideration at 5-6.

⁹ *Id.* at 7.

¹⁰ *Id.* at 8-9.

¹¹ *See Heyward*, ARB No. 2021-0023, slip op. at 2 (citing *Jackson v. CPC Logistics*, ARB No. 2007-0006; ALJ No. 2006-STA-00004 (ARB Jan. 29, 2009) (denying motion for reconsideration where a party repeated his prior arguments); *Elbert v. True Value Co. and John Doe and Mary Roe*, ARB No. 2007-00031, ALJ No. 2005-STA-00036 (ARB Nov. 24, 2010) (denying motion for reconsideration where a party "merely repeats arguments he raised before.")).

Next, Complainant contends that the Board improperly narrowed scope of the equitable tolling principles by claiming that Complainant did not explain how he was prevented from filing a timely whistleblower complaint.¹² Contrary to Complainant's argument, the Board did not narrow the scope of equitable tolling, but rather stated the grounds for equitable tolling and found that Complainant did not establish that any of these factors applied.¹³

Lastly, Complainant contends that Respondents' alleged withholding the CBA, safety records, and video evidence, and Respondent Teamsters Local 731 alleged misrepresentation of his rights as his union representative misled him and lulled him into delaying the filing of his OSHA complaints.¹⁴

As the Board stated in the D. & O., the statute of limitations begins "to run on the date an employee receives 'final, definitive, and unequivocal notice' of an adverse employment decision" and "[t]he claim accrues on '[t]he date that an employer communicates a decision to implement such a decision, rather than the date the consequences of that decision are felt."¹⁵ Complainant had notice of an adverse employment decision when Respondent Mr. Bults, Inc. terminated his employment on October 9, 2023, but did not file his complaints until January 18, 2025, and January 21, 2025.¹⁶

We are not persuaded by Complainant's argument that Respondents misled him into delaying the filing of his OSHA complaints. Complainant has not demonstrated how Respondents' alleged withholding of the CBA and other evidence lulled him into not filing a timely complaint after he was terminated from employment. In addition, even if Complainant had believed Respondent Teamsters 731 was going to represent his grievance in arbitration, his complaint would still be untimely because Respondent Teamsters 731 asserted that it declined to take his grievance to arbitration on or around November 16, 2023.¹⁷ Complainant has not alleged that he was unaware of this. Thus, Complainant's January 18, 2025 OSHA complaint against Respondent Teamsters 731 is well beyond 180 days from November 16, 2023.

¹² Motion for Reconsideration at 6.

¹³ D. & O. at 6.

¹⁴ Motion for Reconsideration at 6-7.

¹⁵ D. & O. at 5 (citations omitted).

¹⁶ *Id.* at 2.

¹⁷ Respondent Teamsters Local 731's Response Brief in Opposition to Petitioner's Opening Brief at 5.

Therefore, Complainant has not met any of the circumstances in which we will reconsider decisions.¹⁸ Accordingly, we **DENY** Complainant's Motion for Reconsideration. Complainant may petition for review of the Board's Decision.¹⁹

SO ORDERED.

ELLIOT M. KAPLAN
Administrative Appeals Judge

PHILIP G. KIKO
Administrative Appeals Judge

¹⁸ With respect to Complainant's argument of error because Mr. Bult's did not file an appellate brief, we note that Respondents are not required to file briefs on appeal (see the Board's May 16, 2025 Briefing Order stating that respondents "may file with the Board a Response Brief in opposition to the Opening Brief."). On appeal, it is the petitioner's burden to prove ALJ error. *See Kirschmann v. Hampton Rds. Transit*, ARB No. 2023-0002, ALJ No. 2021-NTS-00006, slip op. at 6-7 (ARB Feb. 14, 2024).

¹⁹ *See* 29 C.F.R. § 1978.112.