



In the Matter of:

ROBERT A. BARBOZA,

ARB CASE NO. 2018-0076

COMPLAINANT,

ALJ CASE NO. 2017-FRS-00111

v.

DATE: January 28, 2020

BNSF RAILWAY  
COMPANY,

RESPONDENT.

Appearances:

*For the Complainant:*

Robert A. Barboza; *pro se*; Corona, California

*For the Respondent:*

Keith M. Goman, Esq., and Gillian Dale, Esq.; *Hall & Evans, L.L.C.*;  
Denver, Colorado; and Paul S. Balanon, Esq.; *BNSF Railway  
Company*

Before: Thomas H. Burrell, *Acting Chief Administrative Appeals Judge*;  
James A. Haynes and Heather C. Leslie, *Administrative Appeals Judges*

### ORDER DENYING RECONSIDERATION

PER CURIAM. This case arises under the Federal Rail Safety Act of 1982 (FRSA). 49 U.S.C. § 20109 (2008), as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. 110-53, and as implemented at 29 C.F.R. Part 1982 (2019) and 29 C.F.R. Part 18, Subpart A (2019). Complainant Robert Barboza filed a complaint alleging that the Respondent, BNSF Railway Company, retaliated against him in violation of the FRSA's whistleblower protection provisions because he engaged in protected activity. On August 29, 2018, a Department of Labor Administrative Law Judge (ALJ) issued a

Decision and Order Granting Summary Decision because there was a failure of proof that an adverse action occurred within the 180-day limitations period. 49 U.S.C. § 20109(d)(2)(A)(ii). Complainant appealed the ALJ's decision to the Administrative Review Board (ARB or Board) and we concluded that the ALJ's grant of summary decision was a reasoned ruling based on the undisputed facts and the applicable law.

On December 23, 2019, Complainant filed a Motion for Reconsideration of the Board's order. On January 17, 2020, we denied reconsideration because we concluded that none of the factors supporting reconsideration were satisfied.

On January 25, 2020, Complainant filed a "Motion for Petition for Reconsideration." In this motion he argues that grounds for reconsideration exist. For the reasons stated in our Order Denying Reconsideration we deny Complainant's January 25 motion.

Complainant may appeal our decision by filing a timely petition for review in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which Complainant resided on the date of the alleged violation. 29 C.F.R. §1982.112 (Judicial review).

## CONCLUSION

Accordingly, Complainant's Motion for Petition for Reconsideration is **DENIED.**

**SO ORDERED.**