



**In the Matter of:**

**KEVIN JUDY,**

**ARB CASE NO. 2021-0015**

**COMPLAINANT,**

**ALJ CASE NO. 2019-STA-00054**

**v.**

**DATE: December 15, 2021**

**COVENANT TRANSPORT, INC.,**

**RESPONDENT.**

**Appearances:**

***For the Complainant:***

**Kevin Judy; *pro se*; Orlando, Florida**

***For the Respondent:***

**John R. Bode, Esq.; *Miller & Martin PLLC*; Chattanooga, Tennessee**

**Before: James D. McGinley, *Chief Administrative Appeals Judge*, Thomas H. Burrell and Stephen M. Godek, *Administrative Appeals Judges***

### **ORDER DENYING RECONSIDERATION**

PER CURIAM. This case arises under the Surface Transportation Assistance Act of 1982, 49 U.S.C. § 31105(a) (2007) (STAA), as amended, and its implementing regulations at 29 C.F.R. Part 1978 (2020). Kevin Judy (Complainant) filed a complaint alleging that Covenant Transport (Respondent) retaliated against him in violation of STAA's whistleblower protection provisions. The Administrative Law Judge (ALJ) issued an Order Dismissing Complaint (Order). Complainant appealed to the Administrative Review Board (Board). On November 8, 2021, the Board dismissed the complaint.

On November 19, 2021, Complainant's counsel, Richard R. Renner, Esq., filed a motion seeking to withdraw as counsel for Complainant. On November 22, 2021, Complainant filed a pro se petition seeking reconsideration of the Board's decision. Respondent filed a response on December 10, 2021.

The Board is authorized to reconsider a decision upon the filing of a motion for reconsideration within a reasonable time of the date on which the Board issued the decision.<sup>1</sup> In considering whether to reconsider a decision, the Board has applied a four-part test to determine whether the movant has demonstrated:

(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 a material fact presented to the Board before its decision.<sup>2</sup>

Complainant contends that we should reconsider our decision because he submitted information that “seems to have been missed.”<sup>3</sup> Specifically, Complainant asserts the Board did not consider that his former employer submitted false information to deny him unemployment benefits, he was told by the Secretary of Labor's whistleblower investigator to refile his complaints in January 2019, and that his serious medical illnesses and damage to his house impacted his ability to find an attorney sooner. In addition, Complainant notes several factors that the Board did consider, such as the complaint he filed with the Federal Motor Carrier Safety Administration (“FMCSA”) and that he did not receive a copy of the FMCSA report until September 24, 2020.

Complainant's motion does not fall within any of the first three grounds for reconsideration. Rather, he appears to rely solely on a failure to consider material facts. However, because Complainant's motion repeats arguments that he raised in his original appeal and the Board already considered, we will not address them again on reconsideration.<sup>4</sup>

Accordingly, we **DENY** Complainant's Petition for Reconsideration.

**SO ORDERED.**

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<sup>1</sup> *Abbs v. Con-Way Freight, Inc.*, ARB No. 2012-0016, ALJ No. 2007-STA-00037, slip op at 2 (ARB June 11, 2013) (Order Denying Motion for Reconsideration).

<sup>2</sup> *Clark v. Hamilton Hauling, LLC*, ARB No. 2013-0023, ALJ No. 2011-STA-00007, slip op. at 2 (ARB July 24, 2014) (Order Denying Motion for Panel Reconsideration).

<sup>3</sup> Comp. Request for Reconsideration at 1.

<sup>4</sup> *Jackson v. CPC Logistics*, ARB No. 2007-0006, ALJ No. 2006-STA-00004 (ARB Jan. 29, 2009) (Order Denying Reconsideration) (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, slip op. at 2 (ARB Nov. 24, 2010) (Order Denying Reconsideration) (denying motion for reconsideration where a party “merely repeats arguments he raised before.”).