

OFFICE OF COMPLIANCE
LA 200, John Adams Building, 110 Second Street, S.E.
Washington, DC 20540-1999

ROBERT SOLOMON,)
)
 Appellant,)
)
 v.)
)
 OFFICE OF THE ARCHITECT)
 OF THE CAPITOL,)
)
 Appellee.)
)
)
)

Case Number: 02-AC-62(RP)

Before the Board of Directors: Susan S. Robfogel, Chair; Barbara L. Camens; Alan V. Friedman; Roberta L. Holzwarth; Barbara Childs Wallace, Members.

ORDER DENYING REQUEST FOR RECONSIDERATION

On January 19, 2007, the Board of Directors issued a Decision and Order (“Decision”) in the above-captioned case, affirming the hearing officer’s finding that Petitioner failed to establish a *prima facie* case of retaliation in Counts I and II, and as a result, could not establish a hostile work environment based on the alleged retaliatory conduct, as pled in Count III. On February 9, 2007, Petitioner filed a Request for Reconsideration of the Board’s Decision. After a full review of the Petitioner’s request and supporting memorandum,¹ the Board denies the request.

I. Background

Robert Solomon filed a claim against the Architect of the Capitol, alleging two claims of retaliation, and one claim of retaliatory hostile work environment, in violation of Section 207(a) of the Congressional Accountability Act, 2 U.S.C. 1317. The hearing officer held a hearing on the matter and found that Solomon had failed to meet his burden of establishing retaliation or a hostile work environment.

¹Pursuant to Section 8.02 of the Procedural Rules of the Office of Compliance, the Board of Directors determined that the issues presented by the Petitioner could be addressed sufficiently without additional pleadings; thus, a response to the request for reconsideration was not requested of Respondent.

Solomon filed a petition for review, and the Architect filed a response. Upon consideration of the pleadings and the record evidence, the Board summarily affirmed the hearing officer's determination that discrimination was not established. The Board differed with the hearing officer with respect to his rationale that because Petitioner continued with his protected activity, the AOC's actions amounted to a "petty slight" or a "trivial annoyance" and were not "reasonably likely to deter" protected activity. However, because the Board ultimately agreed with the hearing officer's determination that there was insufficient evidence to establish a causal connection between Petitioner's protected activity and Architect Hantman's lack of response to Petitioner's formal grievance, the difference of views on the protected activity element was of no consequence.

II. Standard of Review

Section 8.02 of the Office of Compliance Procedural Rules states that a party may move for reconsideration of a Board decision where the party can establish that the Board has "overlooked or misapprehended points of law or fact."

III. Discussion

In his motion for reconsideration, the Petitioner reiterates arguments made on review and misstates certain record evidence. As a result, Petitioner fails to meet his burden of establishing that the Board has "overlooked or misapprehended points of law or fact." Petitioner's arguments merely state his disagreement with the Board's decision and do not demonstrate how the Board's adoption of the hearing officer's decision amounts to a misapprehension of law or fact. As Petitioner has failed to present any arguments which might lead the Board to reconsider its January 19, 2007 Decision, Petitioner's motion is denied.

ORDER

Pursuant to §8.02 of the Office of Compliance Procedural Rule, the Board DENIES the Petitioner's request for reconsideration, as the Petitioner has failed to establish that the Board has "overlooked or misapprehended points of law or fact."

It is so ORDERED.

Issued, Washington, DC
April 25, 2007

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V.)	CASE NO. 02-AC-62 (RP)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing *Order Denying Request for Reconsideration* was served to the parties by first-class mail at the addresses below on the 25th of April, 2007:

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Respectfully submitted,

/s/ Selviana B. Bates
Selviana B. Bates
Hearing Clerk