

Department of Health and Human Services
DEPARTMENTAL APPEALS BOARD
Appellate Division

In the Case of:)	DATE: October 19, 2009
)	
Social Security Administration,)	
)	
Petitioner,)	Civil Remedies CR1972
)	App. Div. Dkt. No. A-09-103
- v. -)	
)	
)	
)	
Diane L. Reyes,)	
Respondent.)	
)	
)	

RECOMMENDED DECISION TO DECLINE REVIEW OF
ADMINISTRATIVE LAW JUDGE DECISION

This case is before the Board on a notice of appeal filed by the Respondent, Diane L. Reyes. Ms. Reyes appealed a July 2, 2009 decision by Administrative Law Judge (ALJ) Steven T. Kessel, Social Security Administration v. Diane L. Reyes, Respondent, DAB CR1972 (2009). In that decision, the ALJ found that Ms. Reyes had violated section 1129(a) of the Social Security Act and that the \$12,000 civil money penalty proposed by the Inspector General of the Social Security Administration (SSA) for violating the statute was reasonable.

The regulations governing appeals to the Board in administrative proceedings to enforce section 1129(a) provide that the Board "will limit its review to whether the ALJ's initial decision is supported by substantial evidence on the whole record or contained an error of law." 20 C.F.R. § 498.221(i). The Board

may remand a case to the ALJ for further proceedings or may issue to the Commissioner of Social Security (the Commissioner) a recommended decision to decline review or affirm, increase, reduce, or reverse the penalty determined by the ALJ. 20 C.F.R. § 498.221(h).

The Board considered each of the contentions made by Ms. Reyes in the brief accompanying her notice of appeal and her reply brief and examined the record. Applying the appropriate standard of review, the Board finds no basis to disturb the ALJ's factual findings or legal conclusions on any issue. Consequently, the Board issues this recommended decision to decline review of the ALJ's July 2, 2009 decision.

This recommended decision becomes the final decision of the Commissioner 60 days after the date on which it is served on the parties and the Commissioner, unless the Commissioner reverses or modifies the recommended decision within that 60-day period. 20 C.F.R. § 498.222(a). If the Commissioner does not reverse or modify the recommended decision, the Board will serve a copy of the Commissioner's final decision on the parties. If the Commissioner reverses or modifies the recommended decision, the Commissioner shall serve Ms. Reyes with a copy of his final decision.

Appeal Rights

Pursuant to section 1129(d)(1) of the Act, a person adversely affected by a final decision of the Commissioner may appeal that decision by filing a petition for judicial review in the United States Court of Appeals for the circuit in which the person resides or in which the statement or representation found to violate section 1129(a) was made. 42 U.S.C. § 1320a-8(d)(1). The petition for judicial review must be filed within 60 days after the person is served with a copy of the Commissioner's final decision. 20 C.F.R. § 498.222(c)(1). If a petition for judicial review is filed, a copy of the filed petition must be sent by certified mail, return receipt requested, to SSA's General Counsel at the following address:

Social Security Administration
Office of General Counsel
Altmeyer Building
6401 Security Boulevard, Room 635
Baltimore, MD 21235

See 20 C.F.R. § 498.222(c)(2).

_____/s/_____
Leslie A. Sussan

_____/s/_____
Constance B. Tobias

_____/s/_____
Sheila Ann Hegy
Presiding Board Member