

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 00-0032
)
Bridgeport Nature Center, Inc.,)
Heidi M. Berry Riggs, and)
James Lee Riggs, d/b/a Great)
Cats of the World,)
)
Respondents) **Remand Order**

Bobby R. Acord, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], instituted this administrative proceeding by filing a Complaint and Order to Show Cause on May 5, 2000. The Administrator instituted the proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) [hereinafter the Animal Welfare Act]; the regulations issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-2.133) [hereinafter the Regulations]; and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice].

The Administrator alleges that Bridgeport Nature Center, Inc., Heidi M. Berry Riggs, and James Lee Riggs [hereinafter Respondents] exhibited tigers and other exotic

cats during the summer of 1999 in violation of the Animal Welfare Act and the Regulations. In addition, the Complaint and Order to Show Cause states James Lee Riggs applied for an Animal Welfare Act license which was denied because of the allegations in the Complaint and Order to Show Cause. The Administrator seeks sanctions for the violations, as well as an order to show cause why James Lee Riggs' Animal Welfare Act license application should not be denied.

Respondents filed a timely answer on May 25, 2000. Administrative Law Judge Jill S. Clifton [hereinafter the ALJ] conducted a hearing, in Dallas, Texas, from February 25, 2002, through February 28, 2002. In August 2006, the ALJ asked the parties to address whether the Animal Welfare Act and the Regulations applied to Respondents because the alleged violations took place at state fairs. On November 1, 2006, the ALJ issued what she captioned "Decision." In the Decision, the ALJ found Respondents were subject to the Animal Welfare Act and the Regulations and also found Respondents committed a single violation of the Regulations. The ALJ's Decision did not include a discussion of James Lee Riggs' Animal Welfare Act license application, a discussion of a sanction for Respondents' violation of the Regulations, or an order addressing the disposition of the proceeding. Rather the ALJ stated:

Only the issues related to whether any of the Respondents violated the regulations, as alleged, have been heard - - that is, the "liability" portion of the hearing. Consideration of the license application and denial was deferred; also deferred was consideration of any consequences that would

flow if any of the Respondents did violate the regulations, such as what the appropriate sanction would be.

ALJ Decision at 7 ¶ 24.

On March 15, 2007, the Administrator filed Complainant's Appeal Petition in which the Administrator argues that the Decision issued by the ALJ is not a "decision" as that word is defined in the Rules of Practice. 7 C.F.R. § 1.132. The Administrator also argues, in the alternative, that, if I were to find the ALJ's Decision satisfied the definition of the word "decision," I should find the ALJ erred in her interpretation of the Regulations. On May 9, 2007, Respondents filed a Response to Appeal Petition in which they disagreed with the Administrator's position.

I have examined the ALJ's Decision and reviewed Complainant's Appeal Petition, as well as Respondents' Response to Appeal Petition. I need not address the issues raised on appeal and do not decide if the ALJ's Decision satisfies the requirements for a decision set forth in the Rules of Practice. 7 C.F.R. § 1.132. In addition, I do not discuss if the ALJ's Decision is based on correct or incorrect interpretations of the Regulations.

The primary authority of the Judicial Officer is to issue final decisions in adjudicatory proceedings arising from various United States Department of Agriculture programs. 7 C.F.R. § 2.35. Such decisions are final for the purposes of judicial review. 7 C.F.R. § 1.145(i). I conclude that a decision issued by me addressing the ALJ's Decision would be little more than an advisory opinion. Such a decision, absent significant additions discussing issues not addressed by the ALJ, would not be a final

decision for the purposes of judicial review. A decision without all issues discussed is likely to lead to piecemeal review of the case.

Federal appellate courts have long held, with few exceptions, that their jurisdiction is limited to reviewing final judgments. *Kreider Dairy Farms, Inc. v. Glickman*, 190 F.3d 113 (3d Cir. 1999). One of the underlying purposes of the final judgment rule is to discourage piecemeal appeals and to promote efficient judicial administration. *Id.* at 122 (Sloviter, J., concurring). While the constitutional underpinnings of the judicial final judgment rule are not implicated if I were to decide a case that lacked finality, I find that limiting my decisions to cases in which my decision renders a final appealable order provides a more efficient process. Therefore, I will only review cases that can result in a final appealable order.¹

For the foregoing reasons, I remand the case to the ALJ for further proceedings consistent with this Remand Order. This remand will afford the ALJ the opportunity to further review all the filings in this proceeding, including Complainant's Appeal Petition and Respondents' Response to Appeal Petition, and to issue a complete decision addressing all issues in the proceeding, including the question of violations, sanctions, and James Lee Riggs' Animal Welfare Act license application.

¹The one obvious exception to the final judgment rule is the certified question. Under the Rules of Practice, an administrative law judge may certify a "motion, request, objection, or other question to the Judicial Officer . . ." 7 C.F.R. § 1.143(e). If the ALJ's intent in bifurcating the case and issuing a non-final decision was to seek my views on her interpretation of the Regulations (or any other issue in the proceeding), she should have certified the question to me.

ORDER

This case is remanded to the ALJ for further proceedings as discussed in this Remand Order.

Done at Washington, DC

January 18, 2008

William G. Jenson
Judicial Officer