

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) Docket No. 10-0417  
)  
Lancelot Kollman Ramos, a/k/a )  
Lancelot Ramos and )  
Lancelot Kollman, an individual, )  
)  
Respondent ) **Decision and Order**

On September 7, 2010, Kevin Shea, Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], instituted this administrative disciplinary proceeding by filing a Complaint. 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 and standards issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-3.142); 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's Complaint includes a request for oral hearing, as follows:

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this matter proceed to oral hearing in conformity with the Rules of Practice[.]

Compl. at 6. On September 27, 2010, Lancelot Kollman Ramos filed an answer in which he denied the allegations of the Complaint and requested a hearing.

On April 20, 2011, Chief Administrative Law Judge Peter M. Davenport [hereinafter the Chief ALJ] conducted a teleconference with counsel for Mr. Ramos and counsel for the Administrator. During that teleconference, the Chief ALJ scheduled an oral hearing to commence on July 19, 2011, in Tampa, Florida.<sup>1</sup>

On July 5, 2011, the Administrator filed an Amended Complaint,<sup>2</sup> and a Motion to Continue Hearing. The Administrator cited an ongoing investigation as the basis for the Motion to Continue Hearing, as follows:

3. In its ongoing investigation, the complainant, the Animal and Plant Health Inspection Service (APHIS), has obtained, and continues to obtain, further evidence relevant to this case. On July 1, 2011, the complainant filed an amended complaint,<sup>[3]</sup> pursuant to section 1.137(a) of the Rules of Practice, to add allegations based on the documentary evidence known and obtained to date.

4. Complainant's counsel expects to supplement complainant's list of exhibits and witnesses based on the documentary evidence known and obtained to date.

Motion to Continue Hearing at 1 ¶¶ 3-4.

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<sup>1</sup>The Chief ALJ's April 20, 2011, Summary of Teleconference and Order at 2.

<sup>2</sup>The Administrator asserts he filed an amended complaint on July 1, 2011, which was erroneously date stamped "June 31, 2011," by the Office of the Hearing Clerk (Complainant's Pet. for Appeal at 2). The record transmitted by the Hearing Clerk to the Office of the Judicial Officer does not include the Administrator's July 1, 2011, amended complaint.

<sup>3</sup>See note 2.

On July 15, 2011, the Chief ALJ issued an Order in which he cancelled the scheduled hearing and dismissed the instant proceeding without prejudice, as follows:

It now appearing that this action has been brought prematurely before all alleged violations have been thoroughly investigated and documented, the hearing set to commence on July 19, 2011, is **CANCELLED** and this action is **DISMISSED**, without prejudice.

Chief ALJ's July 15, 2011, Order at 2-3 (emphasis in original). On August 12, 2011, the Administrator appealed the Chief ALJ's July 15, 2011, Order to the Judicial Officer.

Mr. Ramos did not file a response to Complainant's Petition for Appeal, and on October 27, 2011, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for consideration and decision.

Based upon a careful consideration of the record, I affirm the Chief ALJ's cancellation of the hearing scheduled for July 19, 2011, and the Chief ALJ's dismissal of the instant proceeding without prejudice.

### **DECISION**

The Administrator requested that this matter proceed to oral hearing in the Complaint, which he signed on August 31, 2010, and filed on September 7, 2010 (Compl. at 1, 6). The Administrator has concluded that he is no longer prepared to proceed to oral hearing (Mot. to Continue Hearing; Complainant's Pet. for Appeal). I find no good reason to maintain this proceeding on the docket of the Office of Administrative Law Judges indefinitely while the Animal and Plant Health Inspection Service completes its investigation of Mr. Ramos. Therefore, I find the Chief ALJ's July 15, 2011, Order

cancelling the scheduled hearing and dismissing this proceeding without prejudice, is not error.

**ORDER**

1. The Chief ALJ's Order, filed July 15, 2011, cancelling the hearing scheduled in the instant proceeding for July 19, 2011, is affirmed.

2. The Chief ALJ's Order, filed July 15, 2011, dismissing without prejudice the instant proceeding, is affirmed.

Done at Washington, DC

November 2, 2011

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William G. Jenson  
Judicial Officer