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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) Docket No. **16-0177**
Lonnie Douglas)
) **Dismissal (With Prejudice)**
Petitioner)

Appearances:

Mr. Corey Lea, representative for Petitioner Lonnie Douglas, and

Mr. Juan Carlos Alarcon, Esq. with the Office of the General Counsel, Civil Rights
Litigation Division, United States Department of Agriculture, Washington D.C.

Petitioner Lonnie Douglas's "Petition for Review and Formal Hearing before the
Administrative Law Judge", filed September 7, 2016, is before me. The Petition is
submitted by Corey Lea, "Plaintiff", but Mr. Lea probably meant "Representative for
Petitioner".

I have carefully reviewed the Petition and the Agency Response filed September 28,
2016, a copy of which is attached.

I conclude that Administrative Law Judges have no authority to grant the relief
requested, as stated in the Agency Response. Consequently, the case of Lonnie Douglas,
Petitioner, is DISMISSED (With Prejudice).

Copies of this Dismissal (With Prejudice) order shall be served by the Hearing Clerk
upon each of the parties.

Done at Washington, D.C.
this 5th day of October 2016



Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
Stop 9203 South Building Room 1031
1400 Independence Ave SW
Washington, DC 20250-9203
202-720-4443
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BEFORE THE SECRETARY OF AGRICULTURE

LONNIE DOUGLAS
Petitioner

Docket No. 16-0177

Agency Response

On or around September 7, 2016, Petitioner Lonnie Douglas (“Petitioner”) filed a Request for a Formal Hearing with the U.S. Department of Agriculture, Office of the Administrative Law Judges (“OALJ”). On September 9, 2016, OALJ issued a notice to the Assistant Secretary for Civil Rights (“Agency”) requesting a response within 20 days. The Agency timely files this response.

Petitioner requests a hearing to be held at a federal courthouse, but provides no statutory basis for the request.¹ *See* Petitioner’s Request.

Petitioner failed to identify valid legal authority and jurisdiction for this action

Under 7 C.F.R. § 1.131, there are nearly fifty statutes which expressly afford an individual a hearing before an Administrative Law Judge. None of them apply to Petitioner’s request. *See* 7 C.F.R. § 1.131. As no action may be brought unless authorized, jurisdiction cannot be assumed absent express statutory or regulatory grant. *See Reid v. United States*, 211 U.S. 529, 538 (1909); *Munro v. Unites States*, 303 U.S. 36, 41 (1938); *United States v. Sherwood*, 312 U.S. 584, 290 (1941); *United States v. Testan*, 424 U.S. 392, 399 (1976); and

¹ Petitioner refers to the *Pigford* Consent Decree and the 2008 Food Energy and Conservation Act, but appears to refer to them in relation to family members who will file a separate complaint. None of the aforementioned has any relevance whatsoever to OALJ’s jurisdiction to hear these allegations of discrimination.

Hercules, Inc. v. United States, 516 U.S. 417, 422 (1996). Petitioner has not identified a statutory jurisdictional basis which would entitle her to a hearing before the OALJ.

As Petitioner fails to assert cognizable jurisdiction for OALJ to hear this action, the request should be dismissed with prejudice.

Date: September 28, 2016

Respectfully submitted,



J. CARLOS ALARCON, Esq.
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UNITED STATES DEPARTMENT OF AGRICULTURE
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Petitioner

Docket No. 16-0177

AGENCY'S NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Juan Carlos Alarcon, United States Department of Agriculture, Office of the General Counsel, Civil Rights Employment and Labor Litigation Division, hereby enters his appearance as counsel of record for the Agency in the above-captioned matter. The Clerk and all parties are requested to address all papers served on the Agency as follows:

Juan Carlos Alarcon
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Date: September 28, 2016

Respectfully submitted,



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