

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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56 Forsyth Street, N.W.  
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February 28, 2023

Thomas Shepherd Jr.  
USDOL Benefits Review Board  
Office of the Clerk of the Appellate Board (OCAB)  
200 CONSTITUTION AVE NW  
WASHINGTON, DC 20210-0001

Appeal Number: 22-12652-J  
Case Style: William Price v. Department of the Air Force, et al  
Agency Docket Number: 19-LHC-0184 / 20-0276

The enclosed copy of this Court's Order of Dismissal is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Any pending motions are now rendered moot in light of the attached order.

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Enclosure(s)

DIS-4 Multi-purpose dismissal letter

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 22-12652-J

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WILLIAM PRICE,

Petitioner,

versus

DEPARTMENT OF THE AIR FORCE,  
AIR FORCE INSURANCE FUND,

Respondents.

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Petition for Review of a Decision of the  
Benefits Review Board

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Before: WILSON, BRANCH, and LUCK, Circuit Judges.

BY THE COURT:

This case arises from William Price’s claim for benefits under the Longshore and Harbor Workers’ Compensation Act (“Longshore Act”), 33 U.S.C. §§ 901-950, against the Department of the Air Force and the Air Force Insurance Fund. An administrative law judge (“ALJ”) initially determined Price was entitled to temporary partial disability benefits for February 9 to March 19, 1997, but denied his claims for ongoing permanent total disability benefits since March 1997. The Benefits Review Board (“Board”) determined Price was entitled to temporary total—not partial—disability benefits from February 9 to March 18, 1997, but affirmed the denial of benefits after March 19, 1997. The Board modified the ALJ’s decision and order to reflect the new award and

“remand[ed] this case for a specific calculation of that award, including any credit to which Employer may be entitled for compensation benefits already paid.”

Rather than wait until the new award had been determined, Price immediately sought judicial review of the Board’s order. After a jurisdictional question (“JQ”) asked about the finality of the Board’s order in light of the remand, the respondents moved to dismiss this petition for lack of jurisdiction. In response to the JQ, Price explains that he seeks to challenge the agency’s determinations about the eligibility of benefits for his alleged ongoing disability, which is an issue he does not want to abandon on remand.

The Longshore Act authorizes courts of appeals to review only “final order[s] of the Board.” 33 U.S.C. § 921(c). An order remanding a Longshore Act claim to the ALJ for further findings of fact is not a final, reviewable order. *See Cooper Stevedoring Co., Inc. v. Dir., Off. of Workers’ Comp. Programs*, 826 F.2d 1011, 1014 (11th Cir. 1987); *Jacksonville Shipyards, Inc. v. Estate of Verderane*, 729 F.2d 726, 727 (11th Cir. 1984). Where, as in this case, the Board determines liability but remands to an ALJ for recalculation of the award, the Board’s order is not a final order under the Longshore Act. *Jacksonville Shipyards, Inc.*, 729 F.2d at 727; *see also Redden v. Dir., Off. of Workers’ Comp. Programs, U.S. Dep’t of Labor*, 825 F.2d 337, 338 (11th Cir. 1987) (explaining in a Black Lung Benefits case that an issue of liability can be reviewed on appeal from a final order after remand to the ALJ).

Accordingly, the respondents’ motion to dismiss is GRANTED, and this petition for review is DISMISSED for lack of jurisdiction.