

**OFFICE OF COMPLIANCE**

LA 200, John Adams Building, 110 Second Street, S.E.  
Washington, DC 20540-1999

\_\_\_\_\_  
Melvin L. Dogan, )  
Appellant, )  
 )  
v. )  
 )  
United States Capitol Police, )  
Appellee. )  
 )  
\_\_\_\_\_ )

Case Number: 10-CP-63 (CV, AG)

Before the Board of Directors: Barbara L. Camens, Chair; Alan V. Friedman, Roberta L. Holzwarth, Susan S. Robfogel, Barbara Childs Wallace, Members.

**DECISION OF THE BOARD OF DIRECTORS**

By Order dated October 12, 2010 and Decision dated December 27, 2010, Hearing Officer Paul M. Coran granted Appellee’s motion for summary judgment and directed verdict, finding that Appellant did not prove that Appellee discriminated against him. The Appellant timely filed a petition for review of the Hearing Officer’s decision.<sup>1</sup> The Appellee employing office filed a brief in opposition to the petition for review.

The Board has considered the Hearing Officer’s Decision and Order, in light of the record, the petition for review, and parties’ filings.<sup>2</sup> The Board finds that the Hearing Officer’s conclusions are supported by substantial evidence and affirms the Hearing Officer’s determination that the record does not establish proscribed discrimination. The Board relies upon the Hearing Officer’s finding and conclusion that the Appellant did not prove that his race or age motivated the employing office failure to promote him.

<sup>1</sup> Although Appellant did not file a brief in support of his petition for review, the Board finds that the record contains sufficient evidence supporting the Hearing Officer’s conclusion that Appellee’s failure to promote the Appellant was not motivated by race or age discrimination. See, *Jordan v. Office of the Senate Sergeant at Arms*, Case No. 01-SN-378 (CV, RP) May 21, 2003) 2003 WL 25795029 (Notwithstanding question as to whether the *pro se* complainant fully satisfied the Board's procedural requirements for filing a supporting brief, the Board concluded that the record contained sufficient evidence to rule on the merits.)

<sup>2</sup> To the extent that Appellant has attached several exhibits to his Petition for Review that were not part of the record below, the Board has not considered evidence presented to it for the first time on review. See, *Rellou v. Director of Human Resources JP Morgan Chase Long-Term Disability Plan, et al.* 2011 WL 3805685 (2<sup>nd</sup> Cir. 2011)(Appellate court rejects evidence as it was not properly presented to, or considered by, the district court)

For the foregoing reasons, the Hearing Officer's decision finding no discrimination **is affirmed.**

*It is so ordered.*

Issued: at Washington, D.C., September 27, 2011