

**UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE SECRETARY**

SEP 20 2019

The Secretary, United States Department of
Housing and Urban Development, on behalf
of Justine van der Pool, and her four minor
aggrieved children,

Charging Party,

v.

Heathermoor II, LLC and Valhalla Management &
Real Estate, LLC, d/b/a Woda Management &
Real Estate, LLC,

Respondents.

HUDOHA 18-JM-0253-FH-022

SECRETARIAL ORDER

On August 16, 2019, the United States Department of Housing and Urban Development (HUD) filed “Charging Party’s Unopposed Request for a Secretarial Order Dismissing a Fair Housing Act Charge That Has Been Settled by Agreement of All Parties” (Request) directly with the Secretary. In response, on August 23, 2019, Administrative Law Judge (ALJ) J. Jeremiah Mahoney issued an “Order Denying Certification for Interlocutory Review” (Order). On August 29, 2019, HUD filed with the Secretary “Charging Party’s Supplement to its Previously-Filed ‘Charging Party’s Unopposed Request for a Secretarial Order Dismissing a Fair Housing Act Charge That Has Been Settled by Agreement of All Parties’” (Supplement). On September 10, 2019, a Secretarial Order was issued to the parties stating that I, as Secretarial Designee, did not have the jurisdiction to rule on the Request. On September 17, 2019, HUD filed “Unopposed Petition for Reconsideration of Secretarial Order and to Vacate Hearing” (Petition for Reconsideration).

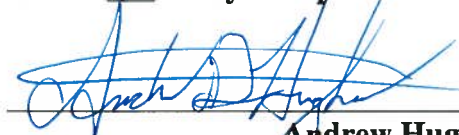
In Fair Housing Act cases, the Secretary, or designee, has jurisdiction to review a Petition for Review of an Initial Decision issued by an ALJ under 24 C.F.R. § 180.675 or a Petition for Review of an ALJ's Interlocutory Ruling after the ALJ's determination regarding certification under 24 C.F.R. § 26.51.

HUD correctly notes that 24 C.F.R. § 26.51(c) grants the Secretary, or designee, the discretion to grant or deny a petition for review of uncertified interlocutory rulings. Petition for Reconsideration at 3-4. However, pursuant to 24 C.F.R. § 26.51(b), a party must file a Petition for Review of an Interlocutory Ruling within 10 days of the ALJ's determination regarding certification. Only once a timely Petition for Review is filed does the Secretary, or designee, have the obligation to review a certified ruling or the discretion to review an uncertified ruling. 24 C.F.R. § 26.51(c). The regulations regarding interlocutory rulings specifically state that the Secretary, or his designee, reviews an interlocutory ruling only after a Petition for Review is timely filed.

Neither a Petition for Review of an Initial Decision nor a timely Petition for Review of an Interlocutory Ruling (certified or not) has been filed in this case. HUD's Supplement was not a Petition for Review of the interlocutory ruling as it merely supplemented HUD's Request claiming the ALJ lacked jurisdiction to make a ruling. See Supplement. HUD stated in its Petition for Reconsideration that the Supplement "was not asking the Secretary to review the legal soundness of a substantive order or ruling by an ALJ." Petition for Reconsideration at 5. Further, HUD's Petition for Reconsideration does not satisfy 24 C.F.R. § 26.51(b) because it was received more than 10 days after the ALJ's order denying certification.

After reconsideration, I, as the Secretary's designee, still believe that I do not have jurisdiction to issue a ruling on this Request.

Dated this 30 th day of September 2019



Andrew Hughes
Secretarial Designee