

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	Docket No. 16-0156
)	
Plezy Nelson, Sr.,)	
)	
Petitioner)	Decision and Order

PROCEDURAL HISTORY

On August 24, 2016, Plezy Nelson, Sr., instituted this proceeding by filing a “Request for a Formal Hearing before the Administrative Law Judge” [Request for Hearing]. Mr. Nelson, Sr., alleges the United States Department of Agriculture [USDA] denied him emergency loans, disaster loans, farm-operating loans, and farm-ownership loans. Mr. Nelson, Sr., cites as the jurisdictional bases for this proceeding the Equal Credit Opportunity Act (15 U.S.C. §§ 1691-1691f); section 741(b)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999;¹ section 14012 of the Food Energy and Conservation Act; and 7 C.F.R. pt. 15f. (Req. for Hr’g at 1.) Mr. Nelson, Sr., seeks a copy of the “running” record²

¹Section 741 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, was enacted in Division A, section 101(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. No. 105-277 (7 C.F.R. § 15f.4).

²Mr. Nelson, Sr., does not indicate what he means by a “running” record. The record before me consists of documents filed by Mr. Nelson, Sr., and the Assistant Secretary for Civil Rights [ASCR]. Mr. Nelson, Sr., should have a copy of all of the documents he filed and the record establishes that the Hearing Clerk, Office of Administrative Law Judges, United States Department of Agriculture [Hearing Clerk], served Mr. Nelson, Sr., with a copy of each document filed by the ASCR.

and a hearing before an administrative law judge. Mr. Nelson, Sr., states that, within twenty-one days after receipt of a copy of the running record, he will “present his complaint with causes of action.” (Req. for Hr’g at 1, 3.)

On September 13, 2016, the ASCR filed an “Agency Response” in which the ASCR contends Mr. Nelson, Sr., failed to assert cognizable jurisdiction for the Office of Administrative Law Judges to entertain this proceeding and requested dismissal of Mr. Nelson, Sr.’s Request for Hearing. Administrative Law Judge Jill S. Clifton [ALJ] issued *Nelson, Sr.*, Docket Nos. 16-0156 and 16-0157, 2016 WL 6235788 (U.S.D.A. Sept. 19, 2016) (Dismissal (With Prejudice)), in which the ALJ dismissed this proceeding because “Administrative Law Judges have no authority to grant the relief requested, as stated in the Agency Response filed September 13, 2016[.]”

On September 21, 2016, Mr. Nelson, Sr., filed “Petitioner’s Appeal to the Judicial Officer” [Appeal Petition]. On October 11, 2016, the ASCR filed an “Agency Response,” and, on October 13, 2016, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for consideration and decision.

DISCUSSION

The regulations in 7 C.F.R. pt. 15f set forth procedures for processing non-employment-related discrimination complaints that were filed with USDA prior to July 1, 1997 and that allege discrimination by USDA during the period beginning January 1, 1981 and ending December 31, 1996.³ The regulations also require the filing of a “Section 741 Complaint Request”⁴ prior to October 21, 2000.⁵ USDA has no authority to accept a Section 741 Complaint

³7 C.F.R. §§ 15f.1-.2.

⁴7 C.F.R. § 15f.4 defines the term “Section 741 Complaint Request” as a request by a complainant to consider the complainant’s complaint under 7 C.F.R. pt. 15f.

⁵7 C.F.R. § 15f.5(c).

Request unless the Section 741 Complaint Request has already been docketed by USDA pursuant to 7 C.F.R. § 15f.5(a) or unless the Section 741 Complaint Request was filed with USDA prior to October 21, 2000.⁶

The time for filing Mr. Nelson, Sr.'s complaint expired on July 1, 1997, and the time for filing Mr. Nelson, Sr.'s Section 741 Complaint Request expired on October 21, 2000. Mr. Nelson, Sr.'s first filing in this proceeding, Mr. Nelson, Sr.'s Request for Hearing, was filed with the Hearing Clerk on August 24, 2016, nineteen years, one month, twenty-three days after Mr. Nelson, Sr.'s complaint was required to be filed and fifteen years, ten months, three days after Mr. Nelson, Sr.'s Section 741 Complaint Request was required to be filed. Moreover, under 7 C.F.R. pt. 15f, the right to a hearing before an administrative law judge is dependent upon Mr. Nelson, Sr.'s filing a Section 741 Complaint Request with the Docketing Clerk in USDA's Office of Civil Rights,⁷ and I find nothing in the record indicating that Mr. Nelson, Sr., has filed a Section 741 Complaint Request with the Docketing Clerk in USDA's Office of Civil Rights. Therefore, I conclude USDA has no authority to entertain this proceeding, and I affirm the ALJ's dismissal of this proceeding based upon the ALJ's lack of jurisdiction to grant the relief Mr. Nelson, Sr., requests.

For the foregoing reasons, the following Order is issued.

⁶7 C.F.R. § 15f.5(c); *see also*, 68 Fed. Reg. 7411 (Feb. 14, 2003).

⁷7 C.F.R. § 15f.5.

ORDER

1. The ALJ's dismissal of this proceeding, filed September 19, 2016, is affirmed.
2. Mr. Nelson, Sr.'s Appeal Petition, filed September 21, 2016, is dismissed.

Done at Washington, DC

October 27, 2016

William G. Jenson
Judicial Officer