

584 Fed.Appx. 1 (Mem)

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. D.C.Cir. Rule 32.1 and Rule 36. United States Court of Appeals, District of Columbia Circuit.

UPMC BRADDOCK, et al., Appellants,

v.

Thomas E. PEREZ, Secretary, United States Department of Labor, et al., Appellees.

No. 13–5158. | Nov. 14, 2014.

Appeal from the United States District Court for the District of Columbia (No. 1:09–cv–01210).

Attorneys and Law Firms

Peter Buscemi, William Eugene Doyle, Jr., Morgan, Lewis & Bockius LLP, Jeffrey William Larroca, Eckert Seamans Cherin & Mellott, LLC, Washington, DC, for Appellants.

Stuart F. Delery, Marleigh D. Dover, Jaynie Randall Lilley, Ronald C. Machen, Jr., Esquire, Michael Jay Singer, Sushma Soni, U.S. Department of Justice, Washington, DC, for Appellees.

Before: KAVANAUGH, Circuit Judge, and EDWARDS and GINSBURG, Senior Circuit Judges.

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs of the parties and oral argument of counsel. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. See *Fed. R.App. P. 36*; *D.C.Cir. R. 36(d)*. For the reasons stated below, it is

ORDERED and ADJUDGED that this appeal be dismissed as moot, that the District Court's judgment be vacated, and that the case be remanded to the District Court with directions that it vacate the relevant Administrative Review Board decision. See *Maydak v. United States*, 630 F.3d 166, 177 (D.C.Cir.2010); *American Family Life Assurance Company of Columbus v. Federal Communications Commission*, 129 F.3d 625, 630 (D.C.Cir.1997).

Appellants are three hospitals that dispute their classification as subcontractors by the Department of Labor's Office of Federal Contract Compliance Programs. That classification requires adherence to the affirmative action requirements in the Vietnam Era Veterans' Readjustment Assistance Act, 38 U.S.C. § 4212, the Rehabilitation Act of 1973, 29 U.S.C. § 793, and Executive Order No. 11246, 30 Fed. Reg. 12,319 (1965).

On March 11, 2014, the Secretary of Labor announced a five-year moratorium on the enforcement of these requirements for subcontractors carrying out the government's TRICARE program for military personnel and their families. Two of the three appellants, UPMC Braddock and UPMC Southside, are no longer operating as independent hospitals. The remaining appellant, UPMC McKeesport, is a TRICARE subcontractor eligible for the moratorium. In a letter dated October 10, 2014, counsel for the Secretary confirmed UPMC McKeesport's status as a TRICARE subcontractor and indicated that the Department of Labor had administratively closed all affirmative action compliance reviews of UPMC McKeesport on that basis. The Department's closure of that review eliminated all remaining injury to appellants in this case. Therefore, this appeal is moot.

Pursuant to *D.C. Circuit Rule 36*, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after *2 resolution of any timely petition for rehearing or rehearing en banc. See *Fed. R.App. P. 41(b)*; *D.C.Cir. R. 41*.

Parallel Citations

98 Empl. Prac. Dec. P 45,196