

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Butt Construction Co., Inc.) ASBCA No. 52081
)
Under Contract No. F33601-97-C-W028)

APPEARANCE FOR THE APPELLANT: Mr. William T. Butt, Jr.
President

APPEARANCES FOR THE GOVERNMENT: COL John M. Abbott, USAF
Chief Trial Attorney
Jean R. Love, Esq.
CAPT Gregory A. Baxley, USAF
Trial Attorneys

OPINION BY ADMINISTRATIVE JUDGE DICUS
ON RESPONDENT'S MOTION TO STRIKE
AND/OR MOTION TO CORRECT ERROR

Respondent has filed what amounts to a motion to reconsider our 29 March 2000 decision. In that decision we denied respondent's motion to strike and amend our earlier decision on a motion for reconsideration which it filed under Rule 29, "Motion for Reconsideration." We said at 2:

[E]ven if we were to grant the motion to strike, we could not reverse our earlier decisions and grant summary judgment for respondent . . . because [Rule 29] does not contemplate multiple motions for reconsideration.

The current motion is filed under Rule 5, "Motions." Under that Rule we may "entertain and rule upon . . . appropriate motions." Although not styled as a motion for reconsideration, respondent's motion has as its goal reconsideration and reversal of

3 earlier Board decisions, including 2 decisions on motions for reconsideration. It is not an appropriate motion under Rule 5 and is denied.

Dated: 25 April 2000

CARROLL C. DICUS, JR.
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

MICHAEL T. PAUL
Administrative Judge
Acting Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 52081, Appeal of Butt Construction Co., Inc., rendered in conformance with the Board's Charter.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals