

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeals of --)
)
Al Barih for General Contracting Ltd.) ASBCA Nos. 57148, 57149, 57599
)
Under Contract No. W91GDW-07-D-2012)

APPEARANCE FOR THE APPELLANT: Elias V. Lorenzana, Jr., Esq.
Lorenzana & Sarhan, Inc.
Austin, TX

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
CPT Tyler L. Davidson, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE PAUL ON APPELLANT'S
SECOND MOTION FOR RECONSIDERATION

In an opinion issued on 7 July 2014, the Board dismissed the above-captioned appeals of Al Barih for General Contracting Ltd. (Al Barih), for failure to prosecute. We noted that the appeals had been on the Board's docket for several years, that Al Barih had engaged a series of attorneys who later withdrew their representations, and that appellant had failed to comply with the Board's Orders. We also concluded that Al Barih's response to our show cause order was unsatisfactory. The Board stated:

Many contractors are represented *pro se* before this Board. They routinely respond to discovery requests and file briefing materials. Considering the extended period of time these appeals have been on the Board's docket, Al Barih's alleged financial condition does not excuse its failure to prosecute these appeals.

Familiarity with this decision is presumed. *Al Barih for General Contracting Ltd.*, ASBCA No. 57148 *et al.*, 14-1 BCA ¶ 35,661 at 174,568.

Al Barih, still proceeding *pro se*, subsequently filed a timely motion for reconsideration on 9 August 2014 in which it merely restated arguments which it had made in response to the Board's show cause order. In an opinion issued on 5 November 2014, the Board denied Al Barih's motion for reconsideration. We concluded:

Al Barih has failed to meet the standards for granting motions for reconsideration. It has neither presented any newly discovered evidence nor pointed to any factual or legal errors in our decision.

Al Barih for General Contracting Ltd., ASBCA No. 57148 *et al.*, 14-1 BCA ¶ 35,798 at 175,085. Familiarity with this decision is also presumed.

Subsequent to these decisions, Al Barih apparently secured the representation of yet another attorney; and on 5 December 2014, newly retained counsel filed a “SECOND MOTION FOR RECONSIDERATION.” Somewhat confusingly, counsel argued that appellant’s initial motion for reconsideration was, in reality, a motion for continuance (app. br. at 4). He then made several arguments relating to the substance of the appeals.

The Army responded on 31 December 2014, contending that appellant’s request was both untimely and inappropriate since the Board’s rule¹ contemplated the filing of only a single motion for reconsideration.²

DECISION

Our rules provide for only one motion for reconsideration. Al Barih’s semantical contentions aside, it filed such a motion and we denied it. Its second motion for reconsideration is denied, and the Recorder is instructed not to accept any further filings by appellant relative to these appeals. *P.T. Sarana Daya Taruna*, ASBCA No. 26240, 88-3 BCA ¶ 21,002 at 106,101.

¹ On 21 July 2014 the Board revised its Rules and prior Rule 31 is now Rule 17.

² On 10 February 2015, appellant filed a motion for default for failure to defend, arguing that the Army had failed to reply to its second motion for reconsideration. Al Barih is mistaken. The Army made a timely reply, and the motion for default is denied.

CONCLUSION

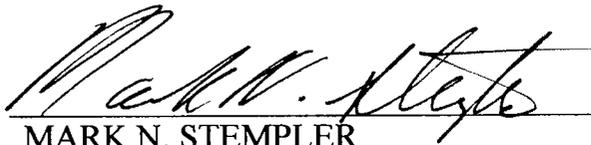
The motion is denied.³

Dated: 23 March 2015



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

I concur



MARK N. STEMLER
Administrative Judge
Acting 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 Nos. 57148, 57149, 57599, Appeals of Al Barih for General Contracting Ltd., rendered in conformance with the Board's Charter.

Dated:

JEFFREY D. GARDIN
Recorder, Armed Services
Board of Contract Appeals

³ Judge Paul Williams, who participated in the earlier decisions in these appeals, has retired.