

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
American Best Construction Company) ASBCA No. 62146
)
Under Contract No. W912D2-18-P-5100)

APPEARANCE FOR THE APPELLANT: Mr. Abdul Basit
President

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
MAJ Susan Kim, JA
MAJ Ronald M. Herrmann, JA
Trial Attorneys

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL

Appellant elected to proceed under the Board's Small Claims (Expedited) procedures, Board Rule 12.2. The Contract Disputes Act, 41 U.S.C. § 7106(b)(4)(5), as implemented by Board Rule 12.2, provides that this decision shall have no precedential value, and in the absence of fraud shall be final and conclusive and may not be appealed or set aside.

The government terminated the contract for default, prompting this appeal. We advised the parties that the only issue before the Board would be whether the termination should be converted to one for the convenience of the government. The government moves to dismiss the appeal as moot because, it says, it has converted the default termination of the contract to one for the convenience of the government, and attaches to the motion a copy of a contract modification converting the termination to one for the government's convenience. Although appellant opposes the motion, because of the conversion we find nothing left to adjudicate. Consequently, the motion to dismiss is granted, and the appeal is dismissed as moot, without prejudice as to its merits. See *Combat Support Assoc.*, ASBCA No. 58945, 16-1 BCA ¶ 36,288 at 176,974.

Dated: October 9, 2019


TIMOTHY P. MCILMAIL
Administrative Judge
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. 62146, Appeal of American Best Construction Company, rendered in conformance with the Board's Charter.

Dated:

PAULLA K. GATES-LEWIS
Recorder, Armed Services
Board of Contract Appeals