

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-5158

September Term, 2014

FILED ON: NOVEMBER 14, 2014

UPMC BRADDOCK, ET AL.,
APPELLANTS

v.

THOMAS E. PEREZ, SECRETARY, UNITED STATES DEPARTMENT OF LABOR, ET AL.,
APPELLEES

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

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

J U D G M E N T

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 resolution of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. R. 41.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Jennifer M. Clark

Deputy Clerk