



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION FOR RECUSAL, RECONSIDERATION, AND
REHEARING DENIED: August 21, 2009

CBCA 1002-R

CORNERS AND EDGES, INC.,

Appellant,

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Respondent.

John E. Larson of Corners and Edges, Inc., Hamilton, MT, appearing for Appellant.

Daniel J. Barry and Mogbeyi E. Omatete, Office of the General Counsel, Department of Health and Human Services, Washington, DC, counsel for Respondent.

Before Board Judges **BORWICK**, **McCANN**, and **DRUMMOND**.

BORWICK, Board Judge.

Appellant has moved for recusal of the judges on the panel in this appeal, and reconsideration and rehearing of our decision dismissing the case on res judicata grounds. We deny the motion.

Background

The Board dismissed this appeal on the ground of res judicata, because the same claim had been previously decided and denied by the Armed Services Board of Contract Appeals (ASBCA). *Corners and Edges, Inc. v. Department of Health and Human*

Services, CBCA 1002, 09-2 BCA ¶ 34,140. Appellant now seeks recusal of the panel involved in CBCA 1002. As grounds for recusal, appellant alleges that in an entirely different set of consolidated appeals--CBCA 693, 762, and 1322, involving a different contract and two different panelists--but with the same panel chair--the Board instructed the court reporters to “delete certain words at the hearing and to add words that were never spoken at the hearing.” Appellant accuses both the court reporting company and the Board of tampering with the transcript. Appellant’s Motion at 3.

As for reconsideration, appellant alleges that the ASBCA’s decision is flawed. It alleges that the ASBCA should not have considered the appeal on a deemed denial basis, which appellant called “an obvious and known adjudicative error of the ASBCA.” Appellant’s Motion at 2. Consequently, appellant argues that the ASBCA decision should not be given res judicata effect. *Id.* at 2-3.

Discussion

Appellant’s basis for recusal is completely unfounded. Appellant’s allegations deserve no further response.

As for reconsideration, appellant raises issues that were discussed at length in the original opinion, and simply reargues points that the Board has considered and rejected. *Corners and Edges, Inc.*, 09-2 BCA at 168,781-82. Appellant has not met the test for reconsideration set forth in Board Rule 26, 48 CFR 6101.26 (2008)). *Tidewater Contractors, Inc. v. Department of Transportation*, CBCA 50-R, 07-2 BCA ¶ 33,618, at 166,501.

Decision

Appellant’s motion for recusal, reconsideration, and rehearing is **DENIED**.

ANTHONY S. BORWICK
Board Judge

We concur:

R. ANTHONY McCANN
Board Judge

JEROME M. DRUMMOND
Board Judge