



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 27, 2021

CBCA 7130-DBT

In the Matter of JAMES H.

James H., Petitioner.

Kimberly I. Thayer, Office of General Counsel, National Tort Claims Center, General Services Administration, Washington, DC, appearing for General Services Administration.

GOODMAN, Board Judge.

Petitioner seeks review of a notice of debt collection by wage garnishment, dated March 30, 2021, that was issued by the General Services Administration (GSA). The Board does not find that a legally enforceable debt exists.

Background

On March 19, 1998, petitioner was driving a privately-owned vehicle in Mississippi when an emergency vehicle approached from behind, and petitioner's vehicle and a GSA-owned vehicle collided while attempting to avoid the emergency vehicle. GSA contends that petitioner is responsible for a debt in the amount of \$3464.72, which is comprised of \$750 for the cost of repairs to the GSA-owned vehicle with the remainder being accrued interest. The parties have agreed to submit this case for a decision on the written record without a hearing.¹

¹ As the accident occurred more than twenty-three years ago, the only contemporaneous evidence is the repair bill and a police report of the accident.

Discussion

The issue before the Board is whether GSA can collect from petitioner by wage garnishment the cost of repairing its vehicle where the basis for the asserted debt is GSA's allegation of tort liability in an automobile accident involving a GSA vehicle. As this Board stated in *Derric J.*, CBCA 7134-DBT (Aug. 17, 2021):

The General Services Board of Contract Appeals (GSBCA), which was one of the boards that were consolidated to establish this Board, recognized that a Government claim for a debt based upon tort liability must show "(i) that a tort has occurred and (ii) that the alleged debtor is in fact liable for any resulting damages." GSBCA 16520-DBT, slip op. at 5 (Nov. 24, 2004). The GSBCA also recognized that state law would determine liability absent a finding that federal law should control, but the Government must show an analysis of petitioner's conduct and liability in light of that state law. GSBCA 16526-DBT, slip op. at 7 (Nov. 24, 2004).

GSA has failed to meet its burden of proof. The police report issued by an officer who came to the scene of the accident indicates that petitioner's vehicle and the GSA-owned vehicle collided while both were attempting to avoid a third vehicle, an oncoming emergency vehicle. The report does not indicate that either petitioner or the driver of the GSA-owned vehicle was at fault, was issued a ticket, or was otherwise charged with a traffic violation. GSA has offered no analysis under state law that would result in tort liability. There is no showing that a tort occurred, and GSA has therefore failed to prove the existence of a debt.

Decision

The Board does not find that a legally enforceable debt exists.

Allan H. Goodman

ALLAN H. GOODMAN
Board Judge