

State Supreme Court will not consider Hanford whistleblower case

By Annette Cary

Tri-City Herald December 20, 2014 Updated 6 hours ago



Walter Tamosaitis

The Washington Supreme Court has declined to consider the dismissal of a case brought by Hanford whistleblower Walter Tamosaitis against Bechtel National, effectively ending that case filed in Benton County Superior Court.

The state high court issued the order Friday that denied Tamosaitis' petition for review of the lower case decision. The order did not provide a reason for the court's decision.

"We agree with the court's decision," Bechtel National said in a statement issued Saturday. "We are dedicated to providing a work environment where all are free to raise concerns without fear of retaliation. A work force that is engaged in this way is one of the keys to the successful completion of the vit plant."

Tamosaitis continues to fight the case on two other legal fronts. The ruling does not affect his recently resumed case in federal court against URS Corp., nor a complaint against Bechtel, URS and the Department of Energy under review by the Department of Labor.

Bechtel National holds the DOE contract to build the Hanford vitrification plant to treat radioactive waste held in underground tanks for disposal. Bechtel's primary subcontractor on the project is URS, which employed Tamosaitis.

Tamosaitis sued Bechtel in Benton County Superior Court, arguing that Bechtel improperly interfered with his employment with URS.

"We were hoping to change the interpretation of the law to give whistleblowers more protection, but the Supreme Court chose not to take it up at this time," Tamosaitis said after the ruling.

Tamosaitis was the research and technology director for the vitrification plant under construction until July 2010, when he was removed from the project. He continued to be employed by URS until he was laid off in fall 2013, but with negligible job duties compared to his duties at the vit plant, his attorney argued. He initially worked out of a basement office shared with copy machines.

Tamosaitis argued that URS removed him from the project after he questioned whether technical issues affecting the plant's future safe and efficient operation had been resolved. Bechtel had a deadline to resolve those issues in mid-2010 or would risk much of a \$6 million award payment.

Construction at part of the vitrification plant is halted now because of technical issues.

Tamosaitis argued that emails show that Bechtel pressured URS to pull him from the project.

Bechtel strongly denies it wanted Tamosaitis removed from the vit plant project for raising technical concerns related to safety. Bechtel and URS say that Tamosaitis' work at the plant was completed and that he sent a disrespectful email to a DOE consultant regarding technical issues. Tamosaitis' attorney Jack Sheridan has said that the email was an attempt to get a nuclear safety issue addressed.

Superior Court Judge Craig Matheson, who has since retired, dismissed the lawsuit Tamosaitis brought in January 2012, and the Washington Court of Appeals upheld Matheson's ruling in July 2014.

Tamosaitis failed to show he lost wages or other money as a result of being removed from work on the project, the Court of Appeals found. Tamosaitis also presented some evidence suggesting that his removal resulted in him not being considered for some other positions at the vitrification plant, but there was no evidence those positions would have resulted in higher pay, according to the appeals court decision.

The appeals court also found that Tamosaitis did not offer sufficient proof for his argument that he had not advanced to URS's executive pay grades because his reputation had been damaged.

Sheridan, in arguments filed with the state Supreme Court, argued that an interpretation of state law that required financial damage to be proven to show Tamosaitis' career had been harmed was outdated.

“Future economic damages were obvious at the moment Dr. Tamosaitis was placed in the basement with no work to do,” according to Tamosaitis’ petition to the state Supreme Court. “It was just a matter of time before his career, which was derailed, was destroyed.”

But Bechtel said in state Supreme Court documents that the law at the heart of Tamosaitis’ suit clearly addressed a plaintiff’s economic interests.

“The Court of Appeals properly recognized that the noneconomic injuries identified by Tamosaitis can be remedied through other causes of action, for instance a defamation action for damage to reputation,” according to Bechtel’s response filed with the state Supreme Court.

Matheson’s dismissal of the case “was not a close call and instead was mandated by the absence of any evidence demonstrating the existence of material issues of fact,” Bechtel said in its response.

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