

Decisions of the United States Court of International Trade

Slip Op. 05–150

BEFORE: SENIOR JUDGE NICHOLAS TSOUCALAS

GLOBE METALLURGICAL, INC. and SIMCALA, INC., Plaintiffs, v.
UNITED STATES, Defendant, and BRATSK ALUMINIUM SMELTER and
RUAL TRADE LIMITED, Defendant-Intervenors.

Consol. Court No.
03–00202

JUDGMENT

In *Globe Metallurgical, Inc. v. United States*, 29 CIT ____ , Slip Op. 05–90 (2005), the Court remanded this matter to the United States Department of Commerce (“Commerce”) with instructions to: (1) recalculate ZAO Kremny and SUAL-Kremny-Ural Ltd.’s (collectively, “Kremny’s”) antidumping duty margin using as partial adverse facts available the antidumping duty margin for Bratsk Aluminum Smelter and Rual Trade Limited (collectively, “Bratsk”) that was calculated in *Final Results of Redetermination Pursuant to Court Remand* (“*First Remand Results*”) filed on December 23, 2004; or (2) explain the use of the Bratsk margin from the *Notice of Amended Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation*, 68 Fed. Reg. 12,037 (Mar. 13, 2003). See *Globe Metallurgical*, 29 CIT at ____ , Slip Op. 05–90 at 14. On October 25, 2005, Commerce filed its *Final Results of Redetermination Pursuant to Court Remand* (“*Second Remand Results*”). For its *Second Remand Results*, Commerce recalculated Kremny’s antidumping duty margin using the antidumping duty margin for Bratsk that was calculated in the *First Remand Results*. See *Second Remand Results* at 3. Accordingly, Kremny’s antidumping duty margin for the period July 1, 2001, through December 31, 2001, is 61.61 percent. See *id.* at 4.

This Court, having received and reviewed Commerce’s *Second Remand Results*, comments of Plaintiffs, and response of Defendant, holds that Commerce duly complied with the Court’s remand order, and it is hereby

ORDERED that Commerce's *Second Remand Results* are reasonable, supported by substantial evidence, and otherwise in accordance with law; and it is further

ORDERED that the *Second Remand Results* filed by Commerce on October 25, 2005, are affirmed in their entirety; and it is further

ORDERED that since all other issues have been decided, this case is dismissed.

Slip Op. 05-151

M/V CHERI H. INC., Plaintiff, v. UNITED STATES SECRETARY OF AGRICULTURE, Defendant.

Before: Richard W. Goldberg, Senior Judge
Court No. 04-00662

MEMORANDUM OPINION AND JUDGMENT ORDER

GOLDBERG, Senior Judge: This case, involving a denial of certification for trade adjustment assistance by the U.S. Department of Agriculture, is before the Court following an order to show cause why this action should not be dismissed for lack of prosecution. The Court has jurisdiction pursuant to 28 U.S.C. § 1581(d).

This action was filed on December 23, 2004. At that time, William R. Hansen, president of the corporation M/V Cheri H. Inc., identified himself as the plaintiff in his complaint against the agency, and the case was so captioned. Defendant filed its answer on March 9, 2005 and the Court subsequently entered a scheduling order to govern disposition of the case. This scheduling order was later amended to permit Mr. Hansen additional time to obtain legal counsel, first through the Court's *in forma pauperis* procedure and then, following the Court's denial of that motion pursuant to *Mertz v. U.S. Customs Service*, 14 CIT 679, 746 F. Supp. 1107 (1990), through independent means if so desired. Because the then named plaintiff was an individual, the Court recognized Mr. Hansen's right to choose to proceed *pro se* pursuant to USCIT Rule 75(a).

On September 14, 2005, defendant filed a motion to re-caption this case, seeking to change the named plaintiff from Mr. Hansen to his corporation. The rationale for this motion, accepted by the Court, was that the application for trade adjustment assistance was made on behalf of Mr. Hansen's corporation and not Mr. Hansen in an individual capacity. The Court agreed that the legal rights arising from defendant's denial of trade adjustment assistance belonged solely to M/V Cheri H. Inc. Accordingly, the case was re-captioned to its present form.

As a result of this re-captioning, plaintiff was informed of its obligation under USCIT Rule 75 to obtain legal counsel. *See* USCIT R. 75(a)–(b)(1) (requiring corporations be represented by licensed counsel admitted to practice before the Court). In a letter to the Court dated October 31, 2005, Mr. Hansen indicated that it would be financially prohibitive for M/V Cheri H. Inc. to obtain counsel in order to further prosecute this matter. The Court's order to show cause followed, in response to which Mr. Hansen reiterated plaintiff's financial inability to obtain legal counsel and understanding of the legal consequences of such inaction.

Accordingly, upon consideration of the foregoing, and upon due deliberation, it is hereby

ORDERED that, pursuant to USCIT Rule 41(b)(3), this action is dismissed for lack of prosecution.

SO ORDERED.