

Court Tightens Whistle-Blower Rules

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WASHINGTON (AP) - The Supreme Court made it harder Tuesday for whistle-blowers to share in the proceeds from fraud lawsuits against government contractors.

The court ruled 6-2 that James Stone, an 81-year-old retired engineer, may not collect a penny for his role in exposing fraud at the now-closed Rocky Flats nuclear weapons plant northwest of Denver.

Writing for the court, Justice Antonin Scalia said Stone was not an original source of the information that resulted in Rockwell International, now part of aerospace giant Boeing Co., being ordered to pay the government nearly \$4.2 million for fraud connected with environmental cleanup at the Rocky Flats plant. Rockwell must pay the entire penalty anyway. The only question before the court was whether Stone would get his cut.

The company, backed by defense, energy and pharmaceutical interests, wanted the justices to restrict when an individual can collect for suing on the government's behalf.

The Bush administration sided with Stone, arguing that it was in the government's interest to encourage whistle-blowers, even though the government keeps more money now that Stone has lost.

The False Claims Act allows individuals, acting on the government's behalf, to file fraud suits against companies that do business with the government. If they prevail, they receive a portion of what the contractor must pay the government. Lower federal courts ruled in Stone's favor.

The case turned on whether Stone provided information that a jury eventually used to find fraudulent claims.

Once allegations are disclosed publicly, often by the media, individuals face a higher hurdle in bringing fraud suits on the government's behalf. Otherwise, people could read a newspaper account or an indictment and then rush to the courthouse to file suit.

The major exception to this rule is if an individual is an original source of the information, which Stone said he was.

The company said his claim was implausible, since Stone was laid off the year before Rockwell began submitting false claims saying it was meeting goals of treating low-level radioactive wastes at the former atomic weapons plant.

Scalia agreed. "Stone did not have direct and independent knowledge of the information upon which his allegations were based," he said.

Justice John Paul Stevens, in a dissent joined by Justice Ruth Bader Ginsburg, said whistle-blowers should have to show only that their information led the government to the fraud, not that the claims ultimately proved to a jury must also have come from them. Justice Stephen Breyer did not take part in the case.

The lower courts said Stone demonstrated that he provided information on which the allegations of fraud were based.

Rocky Flats is designated by the Environmental Protection Agency as a Superfund cleanup site. It is an Energy Department-owned cleanup and closure site.

In nearly four decades, some 70,000 plutonium triggers for nuclear bombs were made at Rocky Flats. Production was halted in 1989 because of chronic safety problems, prompting a raid by FBI agents. The Cold War ended before production could resume. In 1993, the Energy Department announced that the facility's mission was over.

State and federal regulators signed an agreement in 1996 on the cleanup, including demolition of what was termed "the most dangerous building in America" because of leaks, spills and a fire that drove radiation levels off the charts.

The case is Rockwell International v. U.S., ex rel Stone, 05-1272.