

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-1024

September Term, 2002

Filed On: February 12, 2003 [731622]

MJP Construction Co., Inc.,

Petitioner

v.

Secretary of Labor

Respondent

Petition for Review of an Order of the
Occupational Safety and Health Review Commission

Before: EDWARDS, HENDERSON and ROGERS, *Circuit Judges*.

J U D G M E N T

This case was considered on the record compiled before the Occupational Safety and Health Review Commission and on the briefs submitted by counsel. Accordingly, it is

ORDERED that the petition for review be denied. The Commission reasonably decided, based on substantial evidence in the record, to affirm the citations issued by the Secretary of Labor to *MJP Construction Co., Inc.* (MJP) for violating 29 C.F.R. §§ 1926.100(a) and 1926.501(b) by failing to ensure that “fall protection” was in place at a construction site. *See* 29 U.S.C. § 660(a); *S.G. Loewendick & Sons, Inc. v. Reich*, 70 F.3d 1291, 1294 (D.C. Cir. 1995). Specifically, the evidence supports the Commission’s findings that fall protection was feasible, that the violations in citation 2 were willful and that separate penalties are justified for item 1 and item 2 of citation 2. Nor were the separate violations of the same safety regulation duplicative as MJP contends. *See J.A. Jones Constr. Co.*, 1993 WL 61950, at *13 (O.S.H.R.C. 1993).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam
FOR THE COURT:

Mark J. Langer, Clerk