

STAA Protections Help Trucker Fired for Leaving Dangerous Conditions

September 8, 2016

On August 8, the Tenth Circuit Court of Appeals decided *TransAm Trucking Inc. v. Administrative Review Board, Department of Labor*. The Court ruled 2-1 in favor of the whistleblower – a truck driver for TransAm Trucking named Alphonse Maddin – with Judge Michael Murphy writing for the majority and Judge Neil Gorsuch dissenting.

Factual Background

In January 2009, Maddin was driving a tractor trailer in freezing temperatures. At around 11 p.m., he pulled over to the side of the road because his fuel gauge was below empty and he was unable to find a gas station. After spending about 10 minutes on the roadside, Maddin attempted to pull back onto the road and discovered his brakes had frozen because of the subzero temperatures.

Maddin called TransAm and was informed that a repairperson would be sent to him. As he was waiting for the repairperson, Maddin realized that the truck's heater was not working. With no heat, he waited in the truck for over two hours and began to feel numb from the cold. Maddin again called TransAm and told the dispatcher about his physical condition. The dispatcher told him to "hang in there." Concerned about his safety, Maddin decided that he was going to unhitch the trailer and seek help.

Before he left the trailer, he called his supervisor, who told him to either drag the trailer with him or to wait until the repairperson arrived. Maddin proceeded to leave the trailer and seek help. Less than 15 minutes after Maddin left, the repairperson arrived, and Maddin returned to the trailer to meet him. After the incident, Maddin's supervisor informed him that he was writing him up for abandoning his load. One week later, Maddin was fired.

Procedural Background

Maddin filed a complaint with the Occupational Safety and Health Administration ([OSHA](#)), arguing that TransAm had fired him in violation of the Surface Transportation Assistance Act's ([STAA](#)) whistleblower provisions. OSHA dismissed his complaint.

Maddin requested a hearing with a Department of Labor administrative law judge (ALJ), who found in his favor. The ALJ concluded that Maddin had engaged in [protected activity](#) and that the protected activity was a contributing factor in TransAm's decision to fire him. The ALJ issued a final decision in January 2013. In the opinion, the judge awarded Maddin back pay calculated from the date of discharge to the date of his reinstatement.

TransAm appealed the ALJ's decision to the Administrative Review Board (ARB), which affirmed the ALJ's decision. TransAm then appealed the ARB's decision to the Tenth Circuit Court of Appeals.

The Decision

The Tenth Circuit concluded that Maddin engaged in protected activity. Under the STAA, it is unlawful

for an employer to discharge an employee who “refuses to operate a vehicle because . . . the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle’s hazardous safety or security condition.” TransAm argued that Maddin had not “refused to operate a vehicle” under the statute because he had in fact operated his unhitched truck to seek help. The Court rejected TransAm’s argument, deferring to the DOL’s interpretation of the statute. Under the Court’s interpretation, driving the unhitched tractor-trailer did not constitute “operation” of the vehicle under the statute.

The Tenth Circuit also upheld the ARB’s finding on the [causation](#) question. The ARB concluded that “Maddin’s refusal to either drag the trailer or remain with the trailer [were] inextricably intertwined with the adverse action taken against him (termination for abandoning the trailer).” Therefore, the ARB found TransAm’s stated reason for terminating Maddin (abandoning the trailer) necessarily implicated Maddin’s protected activity.

Finally, the Tenth Circuit upheld the ARB’s back-pay award, including the weekly per-diem travel allowance.

In his dissent, Judge Gorsuch disagreed with the majority’s analysis with respect to the question of whether Maddin had operated the vehicle under the STAA. Judge Gorsuch accused the majority of reading into legislative intentions when the statutory language is clear.

STAA Protections

The STAA was enacted, at least in part, to [protect the safety of commercial truck drivers](#). In this case, Maddin left his trailer because he was concerned about his physical safety after spending three hours in a freezing truck. The Tenth Circuit’s finding that TransAm’s termination of Maddin violated the STAA is a favorable development for whistleblowers.