

**14-916 KINGDOMWARE TECHNOLOGIES, INC. V. UNITED STATES**

DECISION BELOW: 754 F.3d 923

LOWER COURT CASE NUMBER: 2013-5042

**QUESTION PRESENTED:**

The Veterans Benefits, Health Care, and Information Technology Act of 2006 provides that contracting officers at the Department of Veterans Affairs "shall award" contracts on the basis of competition restricted to small businesses owned by veterans whenever there is a "reasonable expectation" that two or more such businesses will bid for the contract at "a fair and reasonable price that offers best value to the United States." 38 U.S.C. § 8127(d). The Federal Circuit, however, relied on a prefatory clause in the statute to limit the application of this mandate to situations in which the Department believes that applying it is necessary to meet the goals that the Department establishes for contracting with veteran-owned small businesses.

The question presented is:

Whether the Federal Circuit erred in construing 38 U.S.C. § 8127(d)'s mandatory set-aside restricting competition for Department of Veterans Affairs' contracts to veteran-owned small businesses as discretionary.

**THIS CASE IS REMOVED FROM THE ARGUMENT CALENDAR FOR MONDAY, NOVEMBER 9, 2015. THE PARTIES ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS ADDRESSING THE FOLLOWING QUESTION:**

**"WHETHER THE DEPARTMENT OF VETERANS AFFAIRS PROCUREMENTS AT ISSUE IN THIS CASE HAVE BEEN FULLY PERFORMED, AND IF SO, WHETHER THE CASE IS MOOT."**

**CERT. GRANTED 6/22/2015**