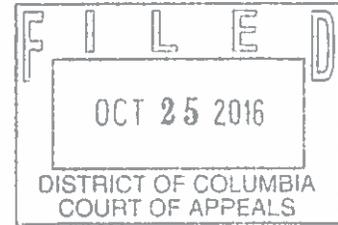


District of Columbia
Court of Appeals



No. 15-AA-1076

CLARENCE T. JONES,

Petitioner,

v.

2015 CRB 74

2016 OCT 27 PM 12 38

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
CW

DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES,
Respondent.

BEFORE: Beckwith and Easterly, Associate Judges, and Nebeker, Senior Judge.

J U D G M E N T

On consideration of respondent's consent motion for extension of time to file its brief, respondent's motion for summary affirmance, petitioner's brief and appendix, and the record on appeal, it is

ORDERED that respondent's motion for summary affirmance is granted. *See Oliver T. Carr Mgmt., Inc. v. Nat'l Delicatessen, Inc.*, 397 A.2d 914, 915 (D.C. 1979). We can discern no exceptional circumstances, nor has petitioner claimed any, which justify this court entertaining the legal arguments he advances on appeal that he did not present to the Administrative Law Judge or Compensation Review Board and are at odds with the arguments he did make to the agency while represented by counsel. *See District of Columbia Metro. Police Dep't v. Stanley*, 942 A.2d 1172, 1179-80 (D.C. 2008) ("It is a well established principle of appellate review that arguments not made at trial may not be raised for the first time on appeal. . . . [W]e have repeatedly held that a litigant may not take one position at trial and a contradictory position on appeal. A court deviates from [these] principle[s] only in exceptional situations when necessary to prevent a clear miscarriage of justice apparent from the record.") (citations and internal quotations omitted); *Cannon v. District of Columbia*, 569 A.2d 595, 597 (D.C. 1990) (finding

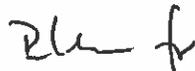
No. 15-AA-1076

no miscarriage of justice in declining to entertain appellant's argument presented for the first time on appeal when appellant had the benefit of appointed counsel below). Further, by seeking rulings from this court first that diverge from the agency's longstanding interpretation of its own jurisdictional statute, he impedes meaningful appellate review. See *Genstar Stone Products Co. v. District of Columbia Dep't of Emp't Servs.*, 777 A.2d 270, 272 (D.C. 2001) (“[I]t is a firmly established rule in this jurisdiction that ‘an agency’s interpretation of its own regulations or of the statute which it administers is generally entitled to great deference from this court. . . . [O]rdinarily, therefore, this court will not attempt to interpret the agency’s statute until the agency itself has done so.’” (quoting *King v. District of Columbia Dep't of Emp't Servs.*, 742 A.2d 460, 466 (D.C. 1999))); *Sheppard v. District of Columbia Dep't of Emp't Servs.*, 993 A.2d 525, 528 (D.C. 2010) (“This court owes even greater deference to an agency’s interpretation of a statute if that interpretation ‘is of long standing and has been consistently applied.’” (quoting *Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 566 A.2d 462, 468 (D.C. 1989))). It is

FURTHER ORDERED that respondent’s consent motion for an extension of time to file its brief is hereby denied as moot. It is

FURTHER ORDERED and ADJUDGED that the order on appeal is hereby affirmed.

ENTERED BY DIRECTION OF THE COURT:



JULIO A. CASTILLO
Clerk of the Court

No. 15-AA-1076

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