

WXPost (WX AD) SEP 19 1973 ~~SEP 19 1973~~

Fitzgerald Wins Reversal of Firing

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A Civil Service Commission Examiner ruled yesterday that the Air Force improperly fired Ernest A. Fitzgerald, the Pentagon contract expert who disclosed a \$2-billion cost overrun on the C-5A cargo plane and later lost his job.

Fitzgerald is to be reinstated in his former job as Deputy for Management Systems and given back pay. The job paid \$31,874 a year when he was fired Jan. 5, 1970 and now pays almost \$37,000.

"I'm pleased, to say the least," Fitzgerald said. "I have some unfinished business there to squeeze some of the fat out of the military budget."

Chief Appeals Examiner Herman D. Staiman called the firing "improper, inappropriate and contrary to the spirit, intent and letter of Commission regulations." But he rejected Fitzgerald's assertion that the firing was in retaliation for his disclosing the cost overrun.

The decision is final unless the Air Force appeals it within 15 days to the Commission's Board of Appeals and Review. Assistant Defense Secretary Jerry Friedheim said that "it's too soon to assess any need for further appeal, but I'm sure the Air



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Force will abide by the rules and decisions ultimately."

Staiman found that Fitzgerald's job as deputy for management systems was a position not requiring competitive examinations and therefore carrying no tenure—but under a "reduction in force (RIF)" abolishing 80 positions in the Air Force Secretary's office, Fitzgerald was the only employee fired.

The Air Force decided to fire Fitzgerald, the ruling said, after a front-page story appeared in The Washington Post on Jan. 1, 1969. Staiman

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said the article "carried a clear but erroneous implication that Fitzgerald's career tenure had been revoked in retaliation for his Nov. 13, 1968, testimony."

This publicity, Staiman said, was "unjust" and "the prime factor in the deterioration of relationships and development of an adversary environment between Mr. Fitzgerald and between Mr. Fitzgerald and the Air Force."

By the time the story appeared, Staiman said, Fitzgerald was controversial and "an Air Force personnel problem." The order concluded that these reasons were not sufficient to fire him.

Fitzgerald called the story by Bernard D. Nossiter "exactly correct." The article said that Fitzgerald was stripped of tenure 12 days after he blew the whistle on the C-5A. He had been awarded tenure two months before his testimony.

"The Air Force tried to say the grant of tenure was a computer error," Fitzgerald said. "If so, this is the first error of its kind, even signed by the head of the personnel division."

Since the firing, Fitzgerald has worked for the Joint Congressional Economic Committee, the House Post Office and Civil Service Committee and Rockland Industries, a small textile firm in Baltimore.

One of Fitzgerald's employers, Sen. William Proxmire (D-Wis.), described the Commission's decision as "a complete vindication of a dedicated public servant." He said he hopes the decision will encourage other public servants to report stories about waste and inefficiency in government.

Fitzgerald, however, said it would be impossible for any individual civil servant to fight a similar case unless he had at least \$200,000. He said his case was paid for by the American Civil Liberties Union.

Earlier clippings in this file.