

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**MELISSA KENNEDY, AS NEXT FRIEND FOR,
MICHAEL DAN KENNEDY,**
Petitioners-Appellants,

v.

**SECRETARY OF HEALTH AND HUMAN
SERVICES,**
Respondent-Appellee.

2011-5106

Appeal from the United States Court of Federal
Claims in case no. 90-VV-1009, Judge Francis M. Allegra.

ON MOTION

Before RADER, *Chief Judge.*

ORDER

Melissa Kennedy moves to withdraw the order dismissing her appeal for failure to prosecute. The Secretary of Health and Human Services ("Secretary") opposes.

On February 2, 2012, Kennedy's appeal was dismissed for failure to file the appendix.

Upon consideration thereof,

IT IS ORDERED THAT:

The court's February 2, 2012 dismissal order will be vacated, the mandate will be recalled, and the motion will be granted if Kennedy files an appendix in accordance with Federal Circuit Rule 30 within 14 days from the date of this order.

FOR THE COURT

APR 30 2012

Date

/s/ Jan Horbaly
Jan Horbaly,
Clerk

cc: Andrew D. Downing, Esq.
Michael P. Milmo, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

APR 30 2012

JAN HORBALY
CLERK