

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-5004

JODY L. NORDWALL, as trustee for the
next of kin of MATEO TORI, deceased,

Petitioners-Appellants,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent-Appellee.

Appeal from the United States Court of Federal Claims in 05-VV-123, Judge Victor J.
Wolski.

ON MOTION

Before NEWMAN, BRYSON, and DYK, Circuit Judges.

DYK, Circuit Judge.

ORDER

Appellants move for reconsideration of the court's order dismissing their appeal for failure to prosecute, and move to voluntarily dismiss the appeal.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion for reconsideration is granted. The mandate is recalled, the December 31, 2008 dismissal order is vacated, and the appeal is reinstated.

(2) The motion to voluntarily dismiss the appeal is granted.

(3) Each side shall bear its own costs.

FOR THE COURT

MAR 05 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

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

cc: John F. Mchugh, Esq.
Michael P. Milmoie, Esq.

MAR 05 2009

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JAN HORBALY
CLERK

ISSUED AS A MANDATE: **MAR 05 2009**