

NOTE: This order is nonprecedential.

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

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**BRYAN JOSEPH BERNSTEIN,**  
*Petitioner*

v.

**MERIT SYSTEMS PROTECTION BOARD,**  
*Respondent*

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2026-1036

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Petition for review of the Merit Systems Protection Board in No. CH-0831-25-1194-I-1.

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**ON MOTION**

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Before TARANTO, HUGHES, and STOLL, *Circuit Judges*.

PER CURIAM.

**O R D E R**

The Merit Systems Protection Board moves to waive the requirements of Federal Circuit Rule 27(f) and to remand this case for the administrative judge to reconsider dismissal of Bryan Joseph Bernstein's appeal. Mr. Bernstein opposes the motion.

It is within this court's discretion to remand to allow the agency to reconsider its previous position. *See SKF USA Inc. v. United States*, 254 F.3d 1022, 1029 (Fed. Cir. 2001). Without drawing any conclusions regarding the merits of the parties' arguments, the court agrees that remand here could preserve party and judicial resources.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted to the extent that the case is remanded to the Board to consider its decision consistent with the motion and this order. The court expects that the Board will soon address the matter on remand.

(2) Each side shall bear its own costs.

FOR THE COURT



Jarrett B. Perlow  
Clerk of Court

May 26, 2026  
Date