

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-3333

GARY S. SCHNELL,

Petitioner,

v.

DEPARTMENT OF THE ARMY,

Respondent.

Petition for review of the Merit Systems Protection Board in CH1221070700-W-1.

ON MOTION

Before GAJARSA, LINN, and PROST, Circuit Judges.

PROST, Circuit Judge.

ORDER

The Department of the Army moves to vacate the July 3, 2008 decision of the Merit Systems Protection Board (MSPB) in Schnell v. Department of the Army, No. CH-1221070700-W-1 and remand for further proceedings related to Gary Schnell's whistleblower allegations.

Specifically, the Army requests further proceedings regarding whether Schnell's disclosures were made in the course of his normal duties and, in the alternative, whether he had a reasonable belief that his disclosures evidenced a violation of any law, rule, or regulation or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The motion is granted. The MSPB's July 3, 2008 decision is vacated and the case is remanded for further proceedings consistent with this order.
- (2) Each side shall bear its own costs.

FOR THE COURT

FEB 6 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

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

cc: Gary S. Schnell
Tara J. Kilfoyle, Esq.

FEB 06 2009

s20

**JAN HORBALY
CLERK**

FEB 6 2009

ISSUED AS A MANDATE: _____