

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2009-3015

KEVIN F. CORADESCHI,

Petitioner,

v.

DEPARTMENT OF HOMELAND SECURITY,

Respondent.

Petition for review of the Merit Systems Protection Board in NY0752040163-A-1.

ON MOTION

Before MAYER, SCHALL, and MOORE, Circuit Judges.

MOORE, Circuit Judge.

### ORDER

Kevin F. Coradeschi moves to waive the requirements of Fed. Cir. R. 47.7 and for leave to file an attorney fee request pursuant to the Back Pay Act for work related to the court's decision in Coradeschi v. Dep't. of Homeland Security, 439 F.3d 1329 (Fed. Cir. 2006) as well as for work associated with this petition for review. The Department of Homeland Security (DHS) opposes any fee request related to the present petition for review.

Coradeschi filed an appeal with the Merit Systems Protection Board challenging his removal from his position as a federal air marshal. After an interim successful petition to this court challenging the Board's decision that it lacked jurisdiction to hear

Coradeschi's claim, on remand, the Board ordered that DHS reinstate Coradeschi to his former position. Subsequently, Coradeschi filed an application for attorney fees pursuant to the Back Pay Act for costs associated with his petition before the Board as well as for costs associated with his interim petition to the court. The Board held that it lacked authority to award fees associated with his interim petition to the court. Coradeschi petitions for review by this court.

While this petition was pending, we recently issued our decision in Ramos v. Dep't of Justice, 552 F.3d 1356 (Fed. Cir. 2009). In Ramos, we affirmed the Board's holding that it lacked authority under the Back Pay Act to award attorney fees for Ramos's interim petition. However, the court provided Ramos 20 days to file a fee application to the court, waiving the requirements of Fed. Cir. R. 47.7 that the application for fees be served and filed within 30 days after entry of the Board's decision creating the possible fee entitlement. Thus, we allow Coradeschi to file an application for attorney fees. As we stated in Ramos, the government can set forth its grounds for opposing the fee request thereafter.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to waive Fed. Cir. R. 47.7 is granted.
- (2) The motion for leave to file an attorney fee request is granted.

Coradeschi's attorney fee request is due within 20 days from the date of filing of this order. DHS's response, if any, is due within 20 days of the date of service of Coradeschi's application.

- (3) The Board's decision is affirmed.
- (4) All sides shall bear their own costs.

FOR THE COURT

**APR 3 2009**

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Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

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

cc: Thomas G. Roth, Esq.  
Hilary A. Stern, Esq.  
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**APR 03 2009**

JAN HORBALY  
CLERK