

NOTE: This order is nonprecedential.

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

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**RAHUL JINDAL,**  
*Petitioner*

v.

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

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2023-1050

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Petition for review of the Merit Systems Protection Board in No. DC-1221-21-0221-W-2.

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**ON MOTION**

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Before LOURIE, PROST, and WALLACH, *Circuit Judges*.  
WALLACH, *Circuit Judge*.

**ORDER**

The Merit Systems Protection Board moves with the consent of Rahul Jindal for a remand, noting that the administrative judge's dismissal for lack of jurisdiction was improperly based on consideration of documents submitted only by the agency in violation of *Hessami v. Merit Sys. Prot. Bd.*, 979 F.3d 1362 (Fed. Cir. 2020).

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion is granted. The Board's decision is vacated, and the case is remanded to the Board to reconsider its decision consistent with the motion and this order.

(2) Each side shall bear its own costs.

FOR THE COURT

March 28, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

ISSUED AS A MANDATE: March 28, 2023