



United States of America
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
1120 20th Street, N.W., Ninth Floor
Washington, DC 20036-3457

SECRETARY OF LABOR,

Complainant,

v.

HENSEL PHELPS CONSTRUCTION CO.,

Respondent.

OSHRC Docket No. 15-1638

REMAND ORDER

Before: MACDOUGALL, Chairman; ATTWOOD and SULLIVAN, Commissioners.

BY THE COMMISSION:

This case is before the Commission on remand from the United States Court of Appeals for the Fifth Circuit. *Sec'y of Labor v. Hensel Phelps Constr. Co.*, 909 F.3d 723 (5th Cir. 2018). Administrative Law Judge Brian A. Duncan vacated a willful citation issued by the Occupational Safety and Health Administration to Respondent. *Hensel Phelps Constr. Co.*, 26 BNA OSHC 1773, 1778 (No. 15-163, 2017) (ALJ). The judge's decision became a final order of the Commission. On appeal, the Fifth Circuit reversed the judge's decision. 909 F.3d at 743. By mandate filed January 18, 2019, the court has remanded this case to the Commission. We, in turn, remand this case to the judge for further proceedings consistent with the court's opinion.

SO ORDERED.

/s/ _____
Heather L. MacDougall
Chairman

/s/ _____
Cynthia L. Attwood
Commissioner

/s/ _____
James J. Sullivan, Jr.
Commissioner

Dated: January 31, 2019