



**Issue Date: 23 December 2011**

ARB Case No.: 09-107

Case No.: 2008-ERA-00008

*In the Matter of:*

RICHARD T. MULL,  
Complainant,  
v.

SALISBURY VETERANS  
ADMINISTRATION MEDICAL CENTER,  
Respondent.

**DECISION AND ORDER DISMISSING  
THE COMPLAINT ON THE GROUND  
OF SOVEREIGN IMMUNITY**

This matter arises under the whistleblower protection provisions of Section 211 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851. On January 27, 2009, the Respondent filed a Motion to dismiss the complaint on the grounds of sovereign immunity. The Complainant filed an initial brief on the issue of sovereign immunity on January 29, 2009, and a response to the motion to dismiss on February 12, 2009.

On April 13, 2009, I ruled that the federal government had waived sovereign immunity with regard to the equitable remedies being sought and denied the Respondent's motion to dismiss. The Respondent sought and obtained interlocutory review of that ruling by the Administrative Review Board. On August 31, 2011, the Board reversed my ruling and remanded the complaint to me for proceedings consistent with its decision.

The complaint is barred by the sovereign immunity of the Respondent and is accordingly **DISMISSED**.

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KENNETH A. KRANTZ  
Administrative Law Judge

Newport News, Virginia  
KAK/mrc

