

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-12959

OSHRC Docket No. 17-1595

RANDALL MECHANICAL, INC.,

Petitioner,

versus

SECRETARY OF LABOR, UNITED STATES
DEPARTMENT OF LABOR,

Respondent.

Petition for Review of a Decision of the
Occupational Safety and Health Review Commission

(March 18, 2020)

Before JORDAN, TJOFLAT, and TRAXLER,* Circuit Judges.

PER CURIAM:

Following oral argument, and a review of the record, we vacate the ALJ's order granting the Secretary's motion for reconsideration and dismissing Randall Mechanical's notice of contest. As we have explained, the "[Occupational Safety and Health Review] Commission and its ALJs are bound to follow the law of the circuit to which the case would most likely be appealed." *Comtran Grp., Inc. v. U.S. Dep't of Labor*, 722 F.3d 1304, 1307 (11th Cir. 2013). The Commission has said the same thing. *See Sec'y of Labor v. Interstate Brands Corp.*, 20 O.S.H. Cas. (BNA) 1102, *3 n.7, 2003 WL 1961274 (2003) (applying Third Circuit law with respect to the Secretary's burden of proof regarding a certain violation). We therefore remand to the ALJ with instructions to apply Supreme Court and Eleventh Circuit precedent with respect to Randall Mechanical's Rule 60(b)(1) motion. We express no view on the merits of that motion.

VACATED AND REMANDED.

* The Honorable William B. Traxler, Circuit Judge for the United States Court of Appeals for the Fourth Circuit, sitting by designation.