

NOTE: This order is nonprecedential.

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

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**AVON JARRETT SPEARMAN,**  
*Petitioner,*

v.

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

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2013-3053

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Petition for review of the Merit Systems Protection Board in case no. DC0752120306-I-1.

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**ON MOTION**

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**O R D E R**

The Department of the Treasury moves to recaption to name the Merit Systems Protection Board as respondent, and for a 21-day extension of time for the Board to file its response brief.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns the procedure or jurisdiction of the Board. The employing agency is designated as the respondent when

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the Board reaches the merits of the underlying case. Here, the Board dismissed Spearman's appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

The motions are granted. The revised official caption is reflected above. The Board should calculate its brief due date from the date of filing of this order.

FOR THE COURT

/s/ Jan Horbaly  
Jan Horbaly  
Clerk

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