

NOTE: This order is nonprecedential.

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

FRANKLIN R. PERKINS,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2013-3074

Petition for review of the Merit Systems Protection Board in No. DA315I120162-I-1.

ON MOTION

O R D E R

The Department of the Air Force moves to reform the official caption to name the Merit Systems Protection Board as the proper respondent, and to set the due date for the Board's brief as 21 days from the date of disposition of this motion. Franklin R. Perkins opposes.

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

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employing agency is designated as the respondent when the Board reaches the merits of the underlying case. Here, the Board dismissed Perkins' appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to reform the caption is granted. The revised official caption is reflected above.

(2) The Board should calculate the due date for its brief from the date of filing of this order.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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