

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3127

KELLY S. JENNINGS,

Petitioner,

v.

SOCIAL SECURITY ADMINISTRATION,

Respondent.

Petition for review of the Merit Systems Protection Board
in CB7521070026-T-1.

ON MOTION

Before LINN, Circuit Judge.

ORDER

The court treats Kelly S. Jennings' petition for a writ of mandamus, submitted within the context of this petition for review, as a motion for various relief. Jennings also moves to vacate the decision of the Merit Systems Protection Board, to dismiss the agency's charges, and to remand for further proceedings. The Social Security Administration responds.

Jennings has not shown that this petition for review should be decided by motion rather than by full briefing. A party seeking a writ of mandamus bears the burden of proving that it has no other means of attaining the relief desired, Mallard v. U.S. Dist. Court for the Southern Dist. of Iowa, 490 U.S. 296, 309 (1989), and that the right to issuance of the writ is "clear and indisputable," Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Jennings has not shown that he cannot make his arguments concerning the

record or concerning vacatur and remand in his brief in this petition for review, and thus he has not shown that he has no other means of attaining the relief desired. Jennings' arguments concerning the merits of his case should be made in his brief.

Accordingly,

IT IS ORDERED THAT:

The motions are denied without prejudice to Jennings making any arguments in his brief.

FOR THE COURT

APR 21 2009

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: Kelly S. Jennings
Austin M. Fulk, Esq.

APR 21 2009

s8

**JAN HORBALY
CLERK**