

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3256

ELIZABETH A. CHAN,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

Petition for review of the Merit Systems Protection Board in SF0752090039-I-1.

ON MOTION

Before RADER, Circuit Judge.

ORDER

The Department of Justice moves to reform the official caption to designate the Merit Systems Protection Board as respondent. Elizabeth A. Chan opposes. Separately, the Department moves for a 30-day extension of time from the date of this court's disposition of the motion to reform the official caption for the government to file its response brief. Chan opposes.

Chan filed an appeal challenging the termination of her term employment as a criminal investigator. The Board determined that it lacked jurisdiction over Chan's termination because the removal of an employee at the expiration of their term appointment is not an adverse action appealable to the Board.

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. In this case, the Board dismissed the appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

- (1) The motions are granted. The revised official caption is reflected above.
- (2) The Board's brief is due within 30 days from the date of filing of this order.

FOR THE COURT

OCT 22 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

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

cc: Robert J. Mulhern, Esq.
Jane W. Vanneman, Esq.
Joyce Friedman, Esq. (copy of petitioner's brief enclosed)

OCT 22 2009

JAN HORBALY
CLERK

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