

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3280

BRODIE J. FLOOD,

Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

Petition for review of the Merit Systems Protection Board in
PH0831090314-I-1.

ORDER

The Merit Systems Protection Board informs the court that Brodie J. Flood has filed a petition for review by the full Board of the administrative judge's (AJ) initial decision.

The AJ issued his decision on June 25, 2009. Flood filed a timely petition for review of the AJ's decision with this court and a petition for review with the Board that was beyond the permissible time limit.

Flood may not simultaneously proceed in both fora. Therefore, if he wishes for his case to proceed in this court, he must dismiss his Board petition.*

Accordingly,

* If Flood chooses to dismiss his Board petition and proceed in this court, the court will review the merits of the AJ's decision. If Flood chooses to dismiss his petition for review in this court and proceed before the Board, the Board may dismiss his petition for review as untimely filed. If that occurred and Flood sought review of the Board's decision on timeliness in this court, our jurisdiction would be limited to review of the timeliness issue and we would not be able to review the merits of the AJ's decision.

IT IS ORDERED THAT:

If Flood does not notify the court that he has dismissed his petition for review before the Board within 30 days of the date of filing of this order, this petition will be dismissed.

FOR THE COURT

OCT 26 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Brodie J. Flood
Alex P. Hontos, Esq.

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

OCT 26 2009

JAN HORBALY
CLERK