

NOTE: This order is nonprecedential.

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

CORA A. METZ,
Petitioner,

v.

**John M. McHugh, SECRETARY, DEPARTMENT OF
THE ARMY,**
Respondent.

2013-3107

Petition for review of the Merit Systems Protection
Board in No. DC0752110154-I-1.

ON MOTION

Before NEWMAN, PROST, and REYNA, *Circuit Judges.*

REYNA, Circuit Judge.

ORDER

The Department of the Army moves to transfer the petition for review to the district court. Cora Metz responds, agreeing the petition should be transferred.

Metz appeals the decision of the United States Equal Employment Opportunity Commission (“EEOC”) concurring with the final decision of the Merit Systems Protection Board finding no discrimination.

This court lacks jurisdiction to hear Metz’s appeal. “If an employee loses her mixed case appeal on the merits of her discrimination claim, she may obtain further review of the adverse decision, either from a district court or from the EEOC and then (if necessary) a district court, but not from this court.” *Conforto v. Merit Sys. Prot. Bd.*, 703 F.3d 1111, 1116 (Fed. Cir. 2013) (citing 5 U.S.C. §§ 7702(a)(3), 7703(b)(2); 29 C.F.R. § 1614.303-310). Indeed, the EEOC’s decision expressly states that Metz has “the right to file a civil action in an appropriate United States District Court based on the decision of the Merit Systems Protection Board, within thirty (30) calendar days of the date that [she] receive[d] th[e] decision.”

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted and the appeal is transferred to the United States District Court for the District of Columbia pursuant to 28 U.S.C. § 1631.

(2) All pending motions are denied as moot.

FOR THE COURT

/s/ Daniel E. O’Toole
Daniel E. O’Toole
Clerk of Court

s25

ISSUED AS A MANDATE: November 21, 2013