

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02127-BNB

DAVID JACKSON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, Washington D.C. Office,
UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, Eastern Colorado Health
Care System, and
UNITED STATES OF AMERICA MERIT SYSTEMS PROTECTION BOARD,

Defendants.

ORDER TRANSFERRING CASE

Plaintiff, David Jackson, initiated this action by filing *pro se* a complaint (ECF No. 1) and a motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 3). On August 13, 2012, Mr. Jackson filed an amended complaint (ECF No. 4). The Court must construe the amended complaint liberally because Mr. Jackson is not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the action will be transferred to the United States Court of Appeals for the Federal Circuit.

Mr. Jackson alleges that he is appealing to this Court from the final administrative order of the Merit Systems Protection Board entered on July 13, 2012. (See ECF No. 4 at 2.) A copy of the final order is attached to the amended complaint. (See *id.* at 39-42.) However, judicial review of a final order of the Merit Systems Protection Board

must be sought in the United States Court of Appeals for the Federal Circuit. See 5 U.S.C. § 7703(b)(1). In fact, the final order specifically advises Mr. Jackson that he may seek judicial review of the final order by appealing to the United States Court of Appeals for the Federal Circuit. (See ECF No. 4 at 41.) Therefore, because Mr. Jackson is seeking judicial review of a final order of the Merit Systems Protection Board and such review must be sought in the United States Court of Appeals for the Federal Circuit, the Court lacks jurisdiction to consider Mr. Jackson claims.

Although the Court lacks jurisdiction to consider Mr. Jackson's claims, the Court may transfer the action to a court in which the action could have been brought if a transfer would be in the interest of justice. See 28 U.S.C. § 1631. The Court finds that the interest of justice would be served by transferring this action to the appropriate federal court in which Mr. Jackson may seek judicial review of the final order of the Merit Systems Protection Board issued on July 13, 2012. Therefore, the action will be transferred to the United States Court of Appeals for the Federal Circuit. Accordingly, it is

ORDERED that the clerk of the Court transfer this action to the United States Court of Appeals for the Federal Circuit.

DATED at Denver, Colorado, this 23rd day of August, 2012.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court