

NOTE: This order is nonprecedential.

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

EUGENE D. JOHNSON,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2014-3104

Petition for review of the Merit Systems Protection Board in No. DC-3443-14-0150-I-1.

ON MOTION

O R D E R

The Department of Health and Human Services (“HHS”) moves to reform the caption to designate the Merit Systems Protection Board (“Board”) as the respondent in this petition. HHS also moves for a 21-day extension of time for the Board to file its response to petitioner’s informal brief.

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. The

employing agency is designated as the respondent when the Board reaches the merits of the underlying case. Here, the Board dismissed petitioner's appeal for failure to make nonfrivolous allegations of Board jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion is granted. The revised official caption is reflected above.
- (2) The Board's informal response brief is due within 21 days from the date of this order.

FOR THE COURT

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