

NOTE: This order is nonprecedential.

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

SHEILA A. MCNAIR,
Petitioner,

v.

DEPARTMENT OF AGRICULTURE,
Respondent.

2014-3141

Petition for review of the Merit Systems Protection Board in No. DC-0752-14-0385-I-1.

ON MOTION

Before O'MALLEY, WALLACH, and HUGHES, *Circuit Judges*.
PER CURIAM.

O R D E R

The Department of Agriculture moves to dismiss the petition for lack of jurisdiction. Sheila A. McNair has not responded.

McNair petitioned this court for review of a decision of the Merit Systems Protection Board (MSPB) that affirmed her removal. After the initial decision, McNair filed a

petition for review with the Office of the Clerk of the MSPB. The petition remains pending with the MSPB.

This court's review of MSPB decisions is limited to final orders or final decisions. *See Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361-63 (Fed. Cir. 2009); *see also* 28 U.S.C. § 1295(a)(9). Because McNair's claims are pending before the MSPB, the order from which she seeks review is not final. *See* 5 C.F.R. § 1201.113(a) ("The initial decision will not become the Board's final decision if within the time limit for filing . . . any party files a petition for review . . ."). McNair may, of course, file a notice of appeal after the MSPB disposes of all claims and enters a final decision.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

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

s24

ISSUED AS A MANDATE: September 19, 2014