

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

ROBERT D. VOCKE, JR.,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2016-2390

Petition for review of the Merit Systems Protection Board in No. DC-1221-13-1266-W-1.

ON PETITION FOR REHEARING EN BANC

ERIC SHUMSKY, Orrick, Herrington & Sutcliffe LLP, Washington, DC, filed a petition for rehearing en banc for petitioner Robert D. Vocke, Jr. Also represented by THOMAS MARK BONDY, HANNAH GARDEN-MONHEIT; CHRISTOPHER J. CARIELLO, New York, NY.

JEFFREY GAUGER, Office of the General Counsel, Merit Systems Protection Board, Washington, DC, filed a response to the petition for respondent Merit Systems Protection Board. Also represented by BRYAN G. POLISUK, KATHERINE M. SMITH.

Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK, MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN, HUGHES, and STOLL, *Circuit Judges*.

WALLACH, *Circuit Judge*, with whom NEWMAN and O'MALLEY, *Circuit Judges*, join, dissent from the denial of the petition for rehearing en banc for the reasons stated in the dissent from denial of the petition for rehearing en banc in *Fedora v. Merit Systems Protection Board*, No. 15-3039.

STOLL, *Circuit Judge*, dissents without opinion from the denial of the petition for rehearing en banc.

PER CURIAM.

ORDER

Petitioner Robert D. Vocke, Jr. filed a petition for rehearing en banc. A response to the petition was invited by the court and filed by respondent Merit Systems Protection Board. The petition was first referred as a petition for rehearing to the panel that heard the appeal, and thereafter the petition for rehearing en banc and response were referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

The mandate of the court will issue on July 27, 2017.

FOR THE COURT

July 20, 2017

Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court