

NOTE: This order is nonprecedential.

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

SMITA A. PATEL,
Petitioner,

v.

UNITED STATES POSTAL SERVICE,
Respondent.

2014-3160

Petition for review of the Merit Systems Protection Board in No. CH-0353-13-0477-I-1.

ON MOTION

Before PROST, *Chief Judge*, DYK AND MOORE, *Circuit Judges.*

PER CURIAM.

ORDER

The United States Postal Service moves to dismiss this petition for lack of jurisdiction.

This court's review of Merit Systems Protection Board 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). After the Administrative Judge issued an initial decision in this case, Smita A. Patel filed a timely petition for review with the Board which remains pending. The filing of that petition with the Board rendered the initial decision non-final for purposes of our review. 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 . . .”). Because there is no final order or final decision of the Board, this court currently lacks jurisdiction over this case.

This order does not prevent Patel from seeking this court’s review by filing a timely petition for review after the Board enters a final decision in her case.

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT

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

s26

ISSUED AS A MANDATE: October 7, 2014