

NOTE: This order is nonprecedential.

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

---

**RODERICK BERNARD PLANT,**  
*Petitioner,*

v.

**MERIT SYSTEMS PROTECTION BOARD,**  
*Respondent.*

---

2010-3110

---

Petition for review of the Merit Systems Protection Board in case no. AT0752100180-I-1.

---

Before RADER, FRIEDMAN, and GAJARSA, *Circuit Judges.*  
PER CURIAM.

**O R D E R**

The court considers whether this petition for review should be dismissed as premature.

On March 29, 2010, Roderick Bernard Plant filed a petition for review with the Merit Systems Protection Board, seeking review of a March 22, 2010 initial decision by an administrative judge. That petition remains pending at the Board. On April 5, 2010, this court also received a petition for review of the initial decision. However, pursuant to the terms of the initial decision, the

initial decision would not become final until April 26, 2010, and then only if Plant did not petition the Board for review.

Because the initial decision is not final and the petition for review remains pending before the Board, Plant's petition seeking review by this court is premature. 28 U.S.C. § 1295(a)(9) (this court has jurisdiction to review a "final order or final decision of the Merit Systems Protection Board"). After the Board rules on his petition for review, Plant may if appropriate file a petition for review with this court, which must be received by this court within 60 days of his receipt of the Board's ruling.

Accordingly,

IT IS ORDERED THAT:

- (1) This petition for review is dismissed as premature.
- (2) Each side shall bear its own costs.

FOR THE COURT

MAY 19 2010

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Roderick Bernard Plant  
Carrie A. Dunsmore, Esq.  
Merit Systems Protection Board, Clerk

s8

**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

MAY 19 2010

JAN HORBALY  
CLERK