

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

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**JOHN BERRY, DIRECTOR, OFFICE OF  
PERSONNEL MANAGEMENT,**  
*Petitioner,*

v.

**TONY D. HOPPER,**  
*Respondent.*

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2013-3052

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Petition for review of the Merit Systems Protection Board in case no. CH0731090798-I-3.

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**O R D E R**

The court reviews the recent docketing of this petition for review and notes that it was docketed in error.

Pursuant to 5 U.S.C. § 7703(d)(1), the Director of the Office of Personnel Management may obtain review of a decision of the Merit Systems Protection Board by filing a petition for judicial review. Such a matter is to be docketed by this court as a Miscellaneous Docket matter, and if the court in its discretion grants the petition for judicial review, then the court docketed the matter as a regular petition. It appears that this matter should have been first docketed as a Miscellaneous Docket matter. Re-

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spondent Tony D. Hopper has responded to the petition in 2013-3052, but the court recently rejected an entry of appearance by the Merit Systems Protection Board because this matter was improperly docketed as a regular petition and the Board was not named as a party. Pursuant to Section 7703(d)(1), the Board has the right to appear in the proceeding.

Accordingly,

IT IS ORDERED THAT:

This petition is dismissed as improperly docketed, and reopened as Misc. No. 145. Once that matter is opened on CM/ECF, the parties should refile the relevant docket entries within 14 days of such action on CM/ECF. In Misc. No. 145, the Board may file its response to the petition for permission to appeal within 21 days of docketing of Misc. No. 145. Thereafter, the court will consider the petition for judicial review pursuant to 5 U.S.C. 7703(d)(1).

FOR THE COURT

/s/ Jan Horbaly

Jan Horbaly

Clerk