

NOTE: This order is nonprecedential.

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

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**JACQUELINE R. MANUEL,**  
*Petitioner*

v.

**OFFICE OF PERSONNEL MANAGEMENT,**  
*Respondent*

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2022-1944

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Petition for review of the Merit Systems Protection Board in No. DA-844E-15-0277-I-1.

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Before DYK, REYNA, and TARANTO, *Circuit Judges*.

PER CURIAM.

**O R D E R**

In response to this court's July 27, 2022, show cause order, the Office of Personnel Management (OPM) urges dismissal for lack of jurisdiction on the ground that the petition is untimely and that in any event this court lacks jurisdiction. Jacqueline R. Manuel opposes dismissal or transfer.

Ms. Manuel seeks review of a decision of the Merit Systems Protection Board that became final on April 15, 2022. This court received Ms. Manuel's petition for review on

June 15, 2022. In her filings before this court, Ms. Manuel indicates that she asserted discrimination claims before the Board and she does not wish to abandon those claims. *See* ECF No. 9.

We agree with OPM that this court lacks jurisdiction over this case. Where, as here, certain types of discrimination claims were asserted before the Board and the petitioner seeks judicial review of such claims, the appropriate forum for review is federal district court. *See* 5 U.S.C. § 7703(b)(2); *Perry v. Merit Sys. Prot. Bd.*, 137 S. Ct. 1975, 1985 (2017); *Ash v. Off. of Pers. Mgmt.*, 25 F.4th 1009, 1011 (Fed. Cir. 2022). However, while OPM urges dismissal over transfer because the petition is untimely, we deem it appropriate to transfer, pursuant to 28 U.S.C. § 1631, to the United States District Court for the Southern District of Texas and for that court to resolve OPM's timeliness argument.

Accordingly,

IT IS ORDERED THAT:

This petition and all its filings are transferred to the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. § 1631.

FOR THE COURT

September 26, 2022  
Date

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