

NOTE: This order is nonprecedential.

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

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**CAMERRON L. BRADBERRY,**  
*Petitioner*

v.

**DEPARTMENT OF THE AIR FORCE,**  
*Respondent*

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2023-2289

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Petition for review of the Merit Systems Protection Board in No. DE-1221-23-0108-W-1.

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**ON MOTION**

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Before LOURIE, MAYER, and STARK, *Circuit Judges*.

PER CURIAM.

**O R D E R**

Camerron L. Bradberry moves for leave to proceed *in forma pauperis*. The Department of the Air Force moves to dismiss the petition for lack of jurisdiction. Mr. Bradberry has not responded.

On August 11, 2023, Mr. Bradberry filed a timely petition for the Merit Systems Protection Board's review of an

administrative judge's initial decision denying Mr. Bradberry's request for corrective action. Also on August 11, 2023, this court received Mr. Bradberry's petition to review the same initial decision.

This court does not yet have authority to decide this case. Although this court has jurisdiction to review final orders or final decisions of the Board, *see* 28 U.S.C. § 1295(a)(9); *see also Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361 (Fed. Cir. 2009), Mr. Bradberry's pending timely petition at the Board renders the initial decision non-final for purposes of our jurisdiction. *See* 5 U.S.C. § 7701(e)(1)(A) (providing that the initial decision does not become final if a party timely petitions the Board for 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 . . .").

As the Air Force notes, two potential paths to this court's review are available to Mr. Bradberry. First, Mr. Bradberry may wait to receive a final determination from the Board on his petition, at which point Mr. Bradberry may, if necessary, seek this court's review by filing a timely petition here. Alternatively, Mr. Bradberry may file a motion at the Board to withdraw his petition pursuant to the June 2022 policy on the Board's website.\* Under that policy, the Clerk of the Board may grant requests to withdraw a petition for review when there is no apparent issue of untimeliness with the petition and no other party objects to the withdrawal. When the Clerk grants a request to

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\* Merit Sys. Prot. Bd., Policy Regarding Clerk's Authority to Grant Requests to Withdraw Petitions for Review (2022), [https://www.mspb.gov/appeals/files/Policy\\_Regarding-Withdrawal\\_of\\_a\\_Petition\\_for\\_Review\\_1515773.pdf](https://www.mspb.gov/appeals/files/Policy_Regarding-Withdrawal_of_a_Petition_for_Review_1515773.pdf) (last visited October 13, 2023).

BRADBERRY v. AIR FORCE

3

withdraw, the order granting the request will be the final order of the Board for purposes of obtaining judicial review.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted. The petition for review is dismissed.
- (2) All other pending motions are denied as moot.
- (3) Each side shall bear its own costs.

FOR THE COURT



Jarrett B. Perlow  
Clerk of Court

November 6, 2023  
Date

ISSUED AS A MANDATE: November 6, 2023