

NOTE: This order is nonprecedential.

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

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**MICHAEL E. STEVENSON, JR.,**  
*Petitioner*

v.

**DEPARTMENT OF VETERANS AFFAIRS,**  
*Respondent*

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2024-1077

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Petition for review of the Merit Systems Protection Board in No. DA-0714-19-0524-I-1.

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Before LOURIE, PROST, and STOLL, *Circuit Judges*.

PER CURIAM.

**ORDER**

In response to this court's December 6, 2023, order directing the parties to show cause whether Michael E. Stevenson, Jr.'s petition for review should be dismissed or transferred, Mr. Stevenson responds that he "wish[es] to file a civil action . . . for racial and disability discrimination[] based on [the Merit Systems Protection Board's] final decision," ECF No. 10 at 2, and the Department of Veterans Affairs urges transfer to the United States District Court

for the Western District of Oklahoma. Mr. Stevenson also files a motion for leave to proceed *in forma pauperis*.

We generally have jurisdiction to review final Board decisions except in “[c]ases of discrimination subject to the provisions of [5 U.S.C. §] 7702,” 5 U.S.C. § 7703(b)(2), which include Mr. Stevenson’s case: he alleged he was “affected by an action which the employee . . . may appeal to the [Board]” and “that a basis for the action was [covered] discrimination,” § 7702(a)(1). Those cases (including Mr. Stevenson’s) are to be brought in federal district court. § 7703(b)(2); *Perry v. Merit Sys. Prot. Bd.*, 582 U.S. 420, 437 (2017); see *Martin v. Dep’t of Veterans Affs.*, Appeal No. 2022-1010, ECF No. 22 (Fed. Cir. Feb. 11, 2022); *Gates v. Dep’t of Veterans Affs.*, Appeal No. 2020-2187, ECF No. 25 (Fed. Cir. Feb. 2, 2021).

Where we lack jurisdiction, and if it is in the interest of justice, we will transfer a case to an appropriate court. 28 U.S.C. § 1631. Here, we agree with the parties and conclude that transfer to the Western District of Oklahoma, where the employment action occurred, is appropriate.\*

Accordingly,

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\* We note that Mr. Stevenson requests the court appoint an attorney for him and permit him to proceed without paying the fees and cost of the civil action, but those issues, among others, will be for the district court to decide.

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IT IS ORDERED THAT:

This matter and all of the filings are transmitted to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. § 1631.

FOR THE COURT



Jarrett B. Perlow  
Clerk of Court

January 24, 2024  
Date