

NOTE: This order is nonprecedential.

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

In Re HEATHER CLARK,
Petitioner

2024-128

On Petition for Writ of Mandamus to the Merit Systems Protection Board in No. PH-1221-24-0032-W-1.

ON PETITION

Before STOLL, CUNNINGHAM, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

Heather Clark files a petition for a writ of mandamus requesting the court to direct the Merit Systems Protection Board to issue a final decision.

Ms. Clark filed a whistleblower individual right of action appeal with the Board on October 17, 2023. On February 13, 2024, the administrative judge issued an order denying Ms. Clark's motion to dismiss based on alleged misconduct and directing the parties to address whether her resignation was voluntary. Ms. Clark then filed a petition for review of that decision with this court, which was dismissed as premature, having been filed before any final

decision from the Board. Ms. Clark now seeks a writ of mandamus to compel entry of a final decision from the Board.

Mandamus is an extraordinary remedy that is only available where the petitioner shows: (1) a clear and indisputable right to relief; (2) no adequate alternative avenue for relief; and (3) that mandamus is appropriate under the circumstances. *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81 (2004). Ms. Clark has not shown that any delay in her Board appeal was contrary to law or otherwise “so extensive [as to be] immoderate or indefinite.” *Groves v. McDonough*, 34 F.4th 1074, 1080 (Fed. Cir. 2022) (cleaned up); see 5 U.S.C. § 706(1); *Telecomms. Rsch. & Action Ctr. v. FCC*, 750 F.2d 70 (D.C. Cir. 1984). Thus, we deny mandamus relief.

Accordingly,

IT IS ORDERED THAT:

The petition is denied.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

June 25, 2024
Date