

NOTE: This order is nonprecedential.

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

MARTIN AKERMAN,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2024-1914

Petition for review of the Merit Systems Protection Board in No. DC-1221-22-0445-W-1.

Before PROST, BRYSON, and HUGHES, *Circuit Judges*.

PER CURIAM.

O R D E R

In response to this court's show cause order, the respondent urges dismissal of this petition for review, while Martin Akerman asks "for the Federal Circuit to review this case," ECF No. 23-1 at 1. Mr. Akerman also moves to consolidate this appeal with Appeal No. 2024-1915 and strike the respondent's response to the show cause order. ECF No. 22.

Mr. Akerman filed this Individual Right of Action appeal with the Merit Systems Protection Board. The

administrative judge dismissed the appeal without prejudice, subject to automatic refiling. On petition for review, the Board affirmed and forwarded the appeal to the regional office for docketing and adjudication.

This court has jurisdiction only over final decisions and orders from the Board. *See* 28 U.S.C. § 1295(a)(9); *Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361 (Fed. Cir. 2009). As a general rule, an order is final only when it “ends the litigation on the merits and leaves nothing for the court to do but execute judgment.” *Id.* (internal quotation marks and citations omitted). A decision that forwards the matter and indicates further proceedings on the merits are required fails to end the litigation on the merits and is not a final decision of the Board that can be appealed. *See Strausbaugh v. Merit Sys. Prot. Bd.*, 401 F. App’x 524, 526 (Fed. Cir. 2010) (citing *Taylor-Holmes v. Off. of Cook Cnty. Pub. Guardian*, 503 F.3d 607, 609 (7th Cir. 2007); *Borelli v. City of Reading*, 532 F.2d 950, 951–52 (3d Cir. 1976); and 9 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure*, Civil § 2367 (3d ed. 2008)).

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

October 23, 2024
Date