

NOTE: This order is nonprecedential.

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

ANTHONY BASSETT,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2024-2225

Petition for review of the Merit Systems Protection Board in No. DC-0752-20-0125-I-1.

ON MOTION

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

PER CURIAM.

O R D E R

Anthony Bassett petitions this court to review the final decision of the Merit Systems Protection Board dismissing for lack of jurisdiction his appeal alleging that he was constructively removed based in part on race and color discrimination. Responding to this court's show cause order, Mr. Bassett moves this court to "exercise its Jurisdiction

that it has over a portion of the case” and “transfer the Discrimination Case to the District which has Jurisdiction over the Discrimination portion,” ECF No. 18 at 1–2; *see also* ECF No. 19. The Board urges transfer of the entire case to the United States District Court for the Eastern District of Virginia or dismissal. In reply, Mr. Bassett states that he “does not wish to dismiss this case in light that this case may be sent to” the Eastern District of Virginia. ECF No. 21 at 2. We agree to transfer.

Federal district courts, not this court, have jurisdiction over “[c]ases of discrimination subject to the provisions of [5 U.S.C. §] 7702,” § 7703(b)(2), which involve an allegation of an action appealable to the Board and an allegation that a basis for the action was covered discrimination, 5 U.S.C. § 7702. *Perry v. Merit Sys. Prot. Bd.*, 582 U.S. 420, 437 (2017). Here, Mr. Bassett continues to pursue his discrimination claim, so jurisdiction to review the Board’s decision lies in district court, not in this court. Mr. Bassett is not allowed to split his claims between two venues. *See Williams v. Dep’t of the Army*, 715 F.2d 1485, 1490 (Fed. Cir. 1983) (en banc) (holding that “Congress did not direct or contemplate bifurcated review” of mixed cases because claims of adverse action and discrimination “will be two sides of the same question and must be considered together”); *see also Pueschel v. Peters*, 577 F.3d 558, 563 (4th Cir. 2009). We agree with the Board that transfer to the Eastern District of Virginia is appropriate under the circumstances. *See* 28 U.S.C. § 1631.

Accordingly,

IT IS ORDERED THAT:

The motions, ECF Nos. 18 and 19, are granted to the extent that the matter and all case filings are transferred to the United States District Court for the Eastern District

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of Virginia pursuant to 28 U.S.C. § 1631.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

January 10, 2025
Date