

NOTE: This order is nonprecedential.

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

ROSE TIFFANY EVANS,
Petitioner

v.

UNITED STATES POSTAL SERVICE,
Respondent

2024-2332

Petition for review of the Merit Systems Protection Board in No. SF-0752-22-0202-I-1.

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

O R D E R

Rose Tiffany Evans petitions this court to review the final decision of the Merit Systems Protection Board affirming her removal and rejecting her affirmative defenses, which included allegations of discrimination based on sex and race. In response to the court's November 1, 2024, show cause order, Ms. Evans "suggests" transfer to the United States District Court for the District of Columbia if this court determines it does not have jurisdiction, ECF No. 11 at 2, and the United States Postal Service urges

dismissal or, in the alternative, transfer to the District Court for the District of Columbia or the United States District Court for the District of Nevada.

Federal district courts, not this court, have jurisdiction over “[c]ases of discrimination subject to the provisions of [5 U.S.C. §] 7702,” 5 U.S.C. § 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 (even if other defenses are also raised), § 7702. *Perry v. Merit Sys. Prot. Bd.*, 582 U.S. 420, 437 (2017). Here, Ms. Evans appealed her removal to the Board, alleged that a basis of that action was covered discrimination, and continues to pursue her discrimination claim, such that her case belongs in district court. Under the circumstances, we find it appropriate to transfer to the United States District Court for the District of Nevada, which appears to be the location of the employment action and records and where Ms. Evans would have worked but for the personnel action. 42 U.S.C. § 2000e-5(f)(3). *See* 28 U.S.C. § 1631.¹

Accordingly,

¹ Ms. Evans expresses preference for transfer to the United States District Court for the District of Columbia. Our transfer is without prejudice to Ms. Evans seeking such transfer by the District of Nevada. *See* 28 U.S.C. § 1404(a); 42 U.S.C. § 2000e-5(f)(3) (providing that the location of the respondent’s principal office “shall . . . be considered a district in which the action might have been brought” for purposes of § 1404).

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IT IS ORDERED THAT:

This matter and all case filings are transferred to the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1631.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

January 14, 2025
Date