

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2007-3083

ROSA EDMONDS,

Petitioner,

v.

DEPARTMENT OF DEFENSE,

Respondent.

ON MOTION

Before MICHEL, Chief Judge, CLEVENGER, Senior Circuit Judge, and DYK, Circuit Judge.

PER CURIAM.

### ORDER

The court treats Rosa Edmonds' motion for a continuance as a motion for reconsideration of the court's April 10, 2007 order dismissing her petition for review for failure to file a brief.

Edmonds was represented by counsel in this case. Edmonds now states that she has requested counsel to withdraw and that she wishes to proceed pro se. No motion to withdraw has been filed by counsel.

The certified list in this case was served by the Merit Systems Protection Board on January 17, 2007. Thus, Edmonds' opening brief was due no later than March 1, 2007. Fed. Cir. R. 31(a)(1)(B). Having received no brief, the court dismissed the petition for review on April 10, 2007. The court received Edmonds' motion for a continuance on April 17, 2007.

“It is well settled that a person is bound by the consequences of his representative’s conduct, which includes both his acts and omissions.” Rowe v. Merit Sys. Prot. Bd., 802 F.2d 434, 437 (Fed. Cir. 1986). See also Link v. Wabash Railroad Company, 370 U.S. 626, 633-635 (1962); Huston v. Ladner, 973 F.2d 1564, 1567 (Fed. Cir. 1992). Edmonds voluntarily chose her attorney in this case and is bound by counsel’s failure to prosecute this petition for review. Julien v. Zeringue, 864 F.2d 1572 (Fed. Cir. 1989) (failure to file a brief can be the basis for dismissal of a case); Fed. Cir. R. 31(d) (clerk is authorized to dismiss a case for failure to file the opening brief).

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

May 2, 2007  
Date

/s/ Jan Horbaly  
Jan Horbaly  
Clerk

cc: Alfonza Whitaker, Esq.  
Rosa Edmonds  
Jeanne E. Davidson, Esq.

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