

NOTE: This order is nonprecedential.

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

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**MATTHEW J. NASUTI,**  
*Petitioner,*

v.

**MERIT SYSTEMS PROTECTION BOARD,**  
*Respondent.*

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2011-3048

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Petition for review of the Merit Systems Protection Board in case no. DC1221090356-M-1.

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**ON MOTION**

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Before PROST, *Circuit Judge.*

**O R D E R**

The Merit Systems Protection Board moves to remand this case to the Board "to reopen the record to consider evidence that implicates the Board's jurisdiction." Matthew J. Nasuti opposes.

The Board has not shown within the motions papers submitted that the case should not first be reviewed based upon the record that was before the Board. The Board

may of course request in its brief that the case be re-manded, and more adequately explain its request.

Accordingly,

IT IS ORDERED THAT:

The motion to remand is denied. The Board's brief is due within 30 days of the date of filing of this order.

FOR THE COURT

**JUL 8 2011**

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Matthew J. Nasuti  
Jeffrey A. Gauger, Esq.

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**FILED**  
**U.S. COURT OF APPEALS FOR**  
**THE FEDERAL CIRCUIT**

**JUL 08 2011**

**JAN HORBALY**  
**CLERK**