

NOTE: This order is nonprecedential.

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

THOMAS M. ROYSTON,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2012-3095

Petition for review of the Merit Systems Protection Board in case no. DC315H110613-I-1.

ON MOTION

O R D E R

The Department of Defense moves to recaption to name the Merit Systems Protection Board as respondent.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns the procedure or jurisdiction of the Board. The employing agency is designated as the respondent when the Board reaches the merits of the underlying case. Here, the Board dismissed Royston's appeal for lack of jurisdic-

tion. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

The motion is granted. The revised official caption is reflected above. The Board should calculate its brief due date from the date of filing of this order.

FOR THE COURT

JUN 18 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Thomas M. Royston
Michael D. Austin, Esq.
James M. Eisenmann, Esq.

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

JUN 18 2012

JAN HORBALY
CLERK