

NOTE: This order is nonprecedential.

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

MATTHEW J. NASUTI,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2012-3136

Petition for review of the Merit Systems Protection Board in case no. DC0752120370-1-1.

ON MOTION

O R D E R

The Department of State moves without opposition to reform the caption to name the Merit Systems Protection Board as respondent. Matthew J. Nasuti submits a motion to "Reconsider its Ruling in Case 2010-3028 Because of Newly Disclosed Evidence of Government Misconduct." Mr. Nasuti also submits a correspondence entitled "Petitioner's Exception to the Federal Circuit's Rule 15(c) Statement Concerning Discrimination."

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 Nasuti's appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

With regard to the issue of the Rule 15(c) Statement, Mr. Nasuti has not filed a completed Rule 15(c) Statement Form, and his recent correspondence does not indicate a claim of discrimination with regard to race, sex, age, national origin, or handicapped condition. To the extent Mr. Nasuti is arguing about the merits of his case, those arguments belong in his brief. Mr. Nasuti is directed to file a completed Rule 15(c) Statement Form within 21 days from the date of filing of this order or his petition will be dismissed.

With regard to Mr. Nasuti's other submission, the court notes that the time for moving for rehearing in 2010-3028 has long past. To the extent that Mr. Nasuti is raising arguments relating to his current petition, those arguments too belong in his brief.

Accordingly,

IT IS ORDERED THAT:

- (1) Mr. Nasuti's motions are denied.
- (2) The motion to reform the caption is granted. The revised official caption is reflected above.
- (3) Mr. Nasuti is directed to file his Fed. Cir. R. 15(c) statement concerning discrimination within 21 days of the date of this order or his petition will be dismissed.

FOR THE COURT

AUG 23 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Matthew J. Nasuti (Fed. Cir. R. 15(c) statement
concerning discrimination form enclosed)
Michael Duane Austin, Esq.

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

AUG 23 2012

JAN HORBALY
CLERK