

NOTE: This order is nonprecedential.

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

ROBERT DONNELL DONALDSON,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent,

AND

DEPARTMENT OF HOMELAND SECURITY,
Intervenor.

2012-3161

Petition for review of the Merit Systems Protection Board in case no. DC1221120087-W1.

ON MOTION

O R D E R

Robert Donnell Donaldson moves to designate the Merit Systems Protection Board (Board) as the respondent. The Department of Homeland Security consents to the motion to recaption and moves to intervene in the matter.

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

Accordingly,

IT IS ORDERED THAT:

(1) The motion to recaption is granted. The revised official caption is reflected above.

(2) The Department of Homeland Security's motion to intervene is granted.

(3) The Merit Systems Protection Board and the Department of Homeland Security should calculate their brief due dates from the date of this order.

FOR THE COURT

SEP 11 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Robert Donnell Donaldson
Joshua E. Kurland, Esq.
Jeffrey Gauger, Esq.

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

SEP 11 2012

JAN HORBALY
CLERK