

NOTE: This order is nonprecedential.

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

FRED L. FREDRICK-BEY,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2012-3165

Petition for Review of the Merit Systems Protection Board in case no. DC0752110799-I-1.

ON MOTION

O R D E R

The United States Department of Defense moves to recaption to designate the Merit Systems Protection Board ("Board") as the 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 Fredrick-Bey's petition 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 this order.

FOR THE COURT

AUG 23 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Douglas G. Edelschick, Esq.
Calvin Morrow, Esq.
Fred L. Fredrick-Bey

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

AUG 23 2012

JAN HORBALY
CLERK