

NOTE: This disposition is nonprecedential.

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

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**DAVID P. GESSERT,**  
*Petitioner,*

v.

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

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2010-3115

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Appeal from the Merit Systems Protection Board in  
No. DC0752090149-I-2.

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**JUDGMENT**

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MATTHEW C. MOUSLEY, Duane Morris, LLP, of  
Philadelphia, Pennsylvania, argued for petitioner.

CALVIN M. MORROW, Attorney, Office of the General  
Counsel, Merit Systems Protection Board, of Washington,  
DC, argued for respondent. With him on the brief were  
JAMES M. EISENMANN, General Counsel, and KEISHA  
DAWN BELL, Deputy General Counsel.

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THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (RADER, *Chief Judge*, NEWMAN and DYK,  
*Circuit Judges*).

**AFFIRMED. See Fed. Cir. R. 36.**

ENTERED BY ORDER OF THE COURT

February 10, 2011  
Date

/s/ Jan Horbaly  
Jan Horbaly  
Clerk