

NOTE: This order is nonprecedential.

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

CAULTON D. ALLEN,
Petitioner,

v.

DEPARTMENT OF VETERANS AFFAIRS,
Respondent.

2010-3088, -3178

Petitions for review of the Merit Systems Protection Board in case nos. DC0752070694-C-3 and DC0752070694-C-4.

ON MOTION

Before LINN, *Circuit Judge.*

ORDER

Caulton D. Allen moves to correct the record. The Department of Veterans Affairs opposes. Allen replies. Allen also moves to withdraw his previously filed motion to withdraw an issue raised in his opening brief. The Department responds.

In his first motion concerning the record, Allen seeks to add evidence that he asserts is not listed on the Merit Systems Protection Board's certified list. The Department responds that one document, a petition for review, is included in documents listed on the certified list and that certain other documents were created after the Board's initial decision. Allen replies that not all documents attached to the petition for review were included.

The court determines, without binding the merits panel to any determinations related to the merits of this case, that Allen may include with his brief any documents that he asserts were presented to the Board in this case. Additionally, any documents generated by the Board in this case, although issued after the Board's initial decision, may be included with Allen's brief. There is no need to "correct the record."

Accordingly,

IT IS ORDERED THAT:

(1) The motion to correct the record is denied as unnecessary. Allen may include with his brief the documents he asserts were before the Board and documents that he asserts were generated by the Board. A copy of this order shall be transmitted to the merits panel assigned to hear this case.

(2) The motion to withdraw the motion to withdraw arguments in his opening brief is granted. The motion to withdraw arguments is itself withdrawn.

(3) Any other pending motions are moot.

FOR THE COURT

JAN 27 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

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

JAN 27 2011

JAN HORBALY
CLERK

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cc: Caulton D. Allen
Vincent D. Phillips, Esq.

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