NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

MATTHEW J. NASUTI,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2011-3048

Petition for review of the Merit Systems Protection Board in case no. DC1221090356-M-1.

ON MOTION

ORDER

The Department of State moves to recaption to name the Merit Systems Protection Board as respondent. Matthew Nasuti opposes.

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, concluding that the letter he submitted could not be considered new evidence and added to the record. The Board never reached the merits.

Accordingly,

IT IS ORDERED THAT:

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

(2) The Board should calculate its brief due date from the date of filing of this order.

FOR THE COURT

MAR 10 2011
Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Matthew J. Nasuti
A. Bondurant Eley, Esq.
Jeffrey A. Gauger, Esq.

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

MAR 10 2011

JAN HORBALY
CLERK

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