

NOTE: This order is nonprecedential.

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

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**MILO D. BURROUGHS,**  
*Petitioner,*

v.

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

AND

**DEPARTMENT OF THE ARMY,**  
*Intervenor.*

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2011-3119

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Petition for review of the Merit Systems Protection Board in case no. DA3330100506-I-1.

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**ON MOTION**

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**O R D E R**

The Department of the Army moves to reform the caption to name the Merit Systems Protection Board as respondent and to intervene. The Army states that the Board consents to the motion.

The court notes that it appears that this petition for review seeks review of a decision of the Board that is not final. The decision on review affirmed in part and remanded the case to the regional office for consideration of his challenge to a minimal educational requirement. This court has jurisdiction to review final decisions of the Board, 28 U.S.C. § 1295(a)(10), and thus it appears that the petitioner's petition is premature.

Upon consideration thereof,

IT IS ORDERED THAT:

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

(2) The petitioner is directed to show cause within 21 days of the date of filing of this order why his petition for review should not be dismissed for lack of jurisdiction. The Board and intervenor may also respond within that time. The briefing schedule is stayed.

FOR THE COURT

JUL 28 2011

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Vincent D. Phillips, Esq.  
Jeffrey Gauger, Esq.  
Milo D. Burroughs

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

JUL 28 2011

JAN HORBALY  
CLERK