

NOTE: This order is nonprecedential.

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

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**JACQUELINE H. MCNAIR,**  
*Petitioner,*

v.

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

AND

**EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,**  
*Intervenor.*

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2011-3142

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Petition for review of the Merit Systems Protection  
Board in case no. AT0752100275-I-1

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ON MOTION

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**O R D E R**

The Equal Employment Opportunity Commission (EEOC) moves to reform the caption to name the Merit Systems Protection Board as the respondent. EEOC also

moves for leave to intervene. Jacqueline H. McNair opposes.

McNair filed an appeal challenging her asserted removal from the Senior Executive Service (SES). The Board dismissed the appeal for lack of jurisdiction, concluding that Ms. McNair was removed during her one-year probationary period, and an agency's removal of an appointee from the SES during a probationary period "is not appealable" to the Board.

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. In this case, the Board dismissed the appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

The motions to reform the official caption and to intervene are granted. The revised official caption is reflected above.

FOR THE COURT

AUG 12 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

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

AUG 12 2011

cc: William Franklyn Joseph, Esq.  
Michael S. Macko, Esq.  
Calvin Morrow, Esq.

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**JAN HORBALY**  
**CLERK**