

NOTE: This order is nonprecedential.

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

JOHN BURKS,
Petitioner,

v.

RAILROAD RETIREMENT BOARD,
Respondent.

2011-3196

Petition for review of the Merit Systems Protection Board in case no. CH0752100197-I-1.

ON MOTION

ORDER

PER CURIAM.

Railroad Retirement Board moves to dismiss John Burks's petition for review for lack of jurisdiction. Burks opposes. The Board replies. Burks moves for a stay of proceedings. The Board opposes. Burks also submitted a motion to transfer, but has now moved to withdraw that motion. The Board moves to file a response out of time. Burks also submitted a motion to withdraw his petition,

but has now moved to withdraw his motion to withdraw. The Board moves to file a response out of time.

Burks had filed a petition with the Equal Employment Opportunity Commission, but he later requested to drop the filing. The Commission appear to have now granted that request. Burks's 15(c) Statement Concerning Discrimination indicates that he has abandoned or will not continue his claim of discrimination. The Board may raise jurisdictional arguments in its brief.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is denied.
- (2) Burks's motion to withdraw his prior motion to transfer the petition is granted.
- (3) Burks's motion to withdraw his prior motion to withdraw his petition is granted.
- (4) The Board's motions to file responses out of time are granted.
- (5) The Board's response brief is due within 40 days from the date of filing of this order.
- (6) All other pending motions are denied.

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BURKS v. RAILROAD RETIREMENT BOARD

FOR THE COURT

DEC 19 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: John Burks
Douglas T. Hoffman, Esq.

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

DEC 19 2011

JAN HORBALY
CLERK