

NOTE: This order is nonprecedential.

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

IN RE SHERMAN HOWARD,
Petitioner.

Miscellaneous Docket No. 126

On Petition for Writ of Mandamus to the Merit Systems
Protection Board in case no. DA0752090172-I-1.

ON PETITION

Before LOURIE, SCHALL, and DYK, *Circuit Judges.*
PER CURIAM.

O R D E R

Sherman Howard submits a petition for a writ of mandamus directing the Merit Systems Protection Board (MSPB) to comply with this court's July 6, 2011 remand order in *Howard v. Department of the Air Force*, Appeal No. 2010-3177, and for an award of attorney fees and costs associated with filing the petition under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). The MSPB responds. Howard replies.

On April 26, 2012, the MSPB issued an Opinion and Order in Howard's appeal, ordering the Department of the Air Force to, *inter alia*, cancel his removal and pay him back pay, interest, and other benefits due.

Howard has not shown entitlement to EAJA fees and costs related to this petition.

Accordingly,

IT IS ORDERED THAT:

(1) The petition for writ of mandamus is denied as moot.

(2) The request for attorney fees and costs incurred in association with this petition is denied.

FOR THE COURT

AUG 14 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Marshall D. White, Esq.
Joshua E. Kurland, Esq.
Michael A. Carney, Esq.
Clerk, Merit Systems Protection Board

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FILED
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THE FEDERAL CIRCUIT

AUG 14 2012

JAN HORBALY
CLERK