

NOTE: This order is nonprecedential.

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

JASON BOYD,
Petitioner

v.

DEPARTMENT OF THE INTERIOR,
Respondent

2024-1715

Petition for review of the Merit Systems Protection Board in No. CH-0752-19-0297-I-5.

Before PROST, TARANTO, and HUGHES, *Circuit Judges*.

PER CURIAM.

O R D E R

Jason Boyd filed an appeal at the Merit Systems Protection Board challenging his removal from federal service and raising, in relevant part, an affirmative defense of discrimination. The Board's final decision affirmed his removal. He petitioned this court for review and his filings indicate that he wishes to continue to pursue his discrimination claim. ECF No. 4 at 1–3; ECF No. 5-1 at 2–3; ECF

No. 1-3 at 35.¹ Responding to this court's show cause order, each party responds that the appropriate forum for this case is the United States District Court for the Southern District of Ohio.

We transfer this case. Federal district courts, not this court, have jurisdiction over “[c]ases of discrimination subject to the provisions of [5 U.S.C. §] 7702,” 5 U.S.C. § 7703(b)(2), which involve an allegation of an action appealable to the Board and an allegation that a basis for the action was covered discrimination. *Perry v. Merit Sys. Prot. Bd.*, 582 U.S. 420, 437 (2017). Here, Mr. Boyd continues to pursue the allegations he made before the Board that his removal was the result of covered discrimination, so jurisdiction to review the Board's decision lies in district court. We agree with the parties that transfer to the United States District Court for the Southern District of Ohio, where the employment action appears to have occurred, is appropriate. *See* 28 U.S.C. § 1631.

Accordingly,

¹ While Mr. Boyd's earlier Statement Concerning Discrimination states that he does “not [choose] to maintain discrimination, retaliation claims if it means electing to do so causes a deadline to be missed with another Court,” ECF No. 4 at 2, his most recent submission indicates that he wishes to maintain his discrimination claims in district court. ECF No. 13-1 at 1.

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IT IS ORDERED THAT:

This matter and all case filings are transferred to the United States District Court for the Southern District of Ohio pursuant to 28 U.S.C. § 1631.

FOR THE COURT



July 30, 2024
Date

Jarrett B. Perlow
Clerk of Court