NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

GABRIEL KOTSIS,
Petitioner

v.

DEPARTMENT OF TRANSPORTATION,
Respondent

2024-1920

Petition for review of the Merit Systems Protection Board in No. AT-0432-16-0006-B-1.

ON MOTION

Before LOURIE, CUNNINGHAM, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

Gabriel Kotsis filed an appeal at the Merit Systems Protection Board challenging his removal and raising, among other things, affirmative defenses of disability discrimination and reprisal for engaging in Equal Employment Opportunity activity. The Board's final decision affirmed. Mr. Kotsis petitioned this court for review, and

his filings indicate that he wishes to continue to pursue his discrimination and retaliation claims. The agency moves to waive Federal Circuit Rule 27(f) and dismiss or transfer this matter. Mr. Kotsis has not filed a response to the motion.

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. Kotsis 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 transfer to the United States District Court for the Northern District of Georgia, where the employment action appears to have occurred. *See* 28 U.S.C. § 1631.

Accordingly,

IT IS ORDERED THAT:

The motion is granted to the extent that the matter and all case filings are transferred to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1631.

FOR THE COURT

Jarrett B. Perlow
Clerk of Court

August 21, 2024
Date