NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

GREGORY BENN BROWN,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2024-2008

Petition for review of the Merit Systems Protection Board in No. PH-0752-19-0045-I-2.

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

PER CURIAM.

O R D E R

The Merit Systems Protection Board dismissed Gregory Benn Brown's appeal subject to automatic refiling and forwarded the appeal to the regional office for further proceedings on the merits, and Mr. Brown seeks this court's review.[1] In response to this court's August 19, 2024 order

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[1] After this petition for review was filed here, the refiled appeal, PH-0752-19-0045-I-2, was dismissed without

to show cause, the Board urges dismissal as premature while Mr. Brown asks this court to proceed with his case.

This court has jurisdiction over only final decisions and orders from the Board. *See* 28 U.S.C. § 1295(a)(9); *Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361 (Fed. Cir. 2009). As a general rule, an order is final only when it "ends the litigation on the merits and leaves nothing for the court to do but execute judgment." *Id.* (internal quotation marks and citations omitted). A decision that forwards the matter and indicates further proceedings on the merits are required fails to end the litigation on the merits and is not a final decision of the Board that can be appealed. *See Strausbaugh v. Merit Sys. Prot. Bd.*, 401 F. App'x 524, 526 (Fed. Cir. 2010) (citing *Taylor-Holmes v. Off. of Cook Cnty. Pub. Guardian*, 503 F.3d 607, 609 (7th Cir. 2007); *Borelli v. City of Reading*, 532 F.2d 950, 951–52 (3d Cir. 1976); and 9 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure, Civil § 2367 (3d ed. 2008)).

Accordingly,

IT IS ORDERED THAT:

(1) The petition for review is dismissed.

(2) All pending motions are denied.

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prejudice, subject to automatic refiling following resolution of the petition for review by this court.

(3) Each party shall bear its own costs.

FOR THE COURT

Jarrett B. Perlow
Clerk of Court

November 12, 2024
Date