

NOTE: This order is nonprecedential.

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

DIANE ROY,
Petitioner

v.

DEPARTMENT OF AGRICULTURE,
Respondent

2025-1652

Petition for review of the Merit Systems Protection Board in No. DA-0432-20-0133-B-1.

Before REYNA, HUGHES, and STOLL, *Circuit Judges*.

PER CURIAM.

O R D E R

Diane Roy appealed her removal to the Merit Systems Protection Board asserting, among other things, that a basis for her removal was age/race discrimination, whistleblowing retaliation, and reprisal for prior equal employment opportunity activity. In response to the court's show cause order, Ms. Roy indicates that she does "not want [her] discrimination case dismissed," and if this court does not possess jurisdiction, she is "sure [this court] will forward it to the right court." ECF No. 11 at 1. The

Department of Agriculture requests transfer to the United States District Court for the for the Eastern District of Louisiana. ECF No. 10 at 8.

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 or retaliation, *id.* § 7702. *Perry v. Merit Sys. Prot. Bd.*, 582 U.S. 420, 437 (2017); *Diggs v. Dep’t of Hous. & Urb. Dev.*, 670 F.3d 1353, 1357 (Fed. Cir. 2011) (holding that the affirmative defense of retaliation for prior equal employment opportunity activity “falls outside [of the court’s] jurisdictional reach”). Here, Ms. Roy alleged that her removal was based, at least in part, on covered discrimination such that her case belongs in district court. Under such circumstances, we find it appropriate to transfer to the United States District Court for the Eastern District of Louisiana, where the employment action appears to have occurred. *See* 28 U.S.C. § 1631.

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

September 12, 2025
Date