

NOTE: This order is nonprecedential.

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

TERESA FITZGERALD,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2025-1976

Petition for review of the Merit Systems Protection Board in No. AT-3443-25-1793-I-1.

Before REYNA, BRYSON, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

Teresa Fitzgerald has petitioned both this court and the Merit Systems Protection Board for review of an initial decision. Because the petition at the Board was deemed timely filed and remains pending, the court directed the parties to show cause whether the petition to this court should be dismissed as premature. The Board urges dismissal. Ms. Fitzgerald has not responded.

In general, this court only has jurisdiction over “an appeal from a final order or final decision of the . . . Board.”

28 U.S.C. § 1295(a)(9). A timely petition for Board review renders the initial decision non-final. *See* 5 C.F.R. § 1201.113(a). Given Ms. Fitzgerald's pending petition at the Board, this court currently lacks jurisdiction. After the Board issues a final decision, Ms. Fitzgerald may, if necessary, file a timely petition for this court's review. Alternatively, if she wishes to forgo Board review of her petition and instead directly pursue this court's review, she may wish to consider the Board's withdrawal policy as identified by the Clerk of the Board in the letter accompanying the certified list in this case. *See* ECF No. 16 at 1; *see also* June 2022 Board Policy.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

December 29, 2025
Date