NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

MARTIN AKERMAN,
Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent

2026-2029

Petition for review of the Merit Systems Protection Board in No. DC-844E-24-0359-I-1.

ON PETITION AND MOTION

Before DYK, MAYER, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

Having considered the parties' responses to this court's show cause order and Martin Akerman's motions for various relief, we now deny relief and dismiss.

This matter arises from Mr. Akerman's appeal to the Merit Systems Protection Board (No. DC-844E-24-0359-I-1) from the denial of disability-retirement benefits. On

April 16, 2026, the administrative judge granted Mr. Akerman's request to reopen the record but only until April 27, 2026. On April 21, 2026, Mr. Akerman filed a copy of that order and other documents at this court, seeking our review. On April 30, 2026, the administrative judge issued an initial decision affirming the agency's decision. Mr. Akerman has filed a petition with the Board for review of the initial decision, and that petition remains pending.

As Mr. Akerman acknowledges in his filings before this court, *see e.g.,* ECF No. 12 at 5, we do not at this time have jurisdiction under 28 U.S.C. § 1295(a)(9) and 5 U.S.C. § 7703 to review Mr. Akerman's direct appeal from the administrative judge's rulings. That jurisdictional authority extends only to "a final order or final decision of the" Board, § 1295(a)(9); § 7703(b)(1)(A), and Mr. Akerman's timely petition at the Board presently renders the administrative judge's decisions non-final. *See* 5 C.F.R. § 1201.113(a); *Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361–63 (Fed. Cir. 2009); *cf. PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1361 (Fed. Cir. 2018).

Although we may consider his submissions in this court as seeking mandamus relief under 28 U.S.C. § 1651(a), such relief is available only upon a showing that Mr. Akerman has (1) a clear and indisputable right to relief; (2) no adequate alternative avenue for relief; and (3) that mandamus is appropriate under the circumstances. *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81 (2004). We have considered his arguments, including that mandamus is necessary to preserve "the Court's ability to provide meaningful later review," ECF No. 27-1 at 12, but we cannot say that Mr. Akerman has a clear entitlement to relief or that he has shown the ordinary review process is an inadequate avenue for him to raise his challenges to the underlying proceedings.

Accordingly,

IT IS ORDERED THAT:

All pending motions and requested relief are denied, and this matter is dismissed.

FOR THE COURT

Jarrett B. Perlow
Clerk of Court

September 18, 2026
Date