

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3075

EARL T. BARNETT

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

Petition for review of the Merit Systems Protection Board in PH315H080391-I-1.

ON MOTION

Before DYK, Circuit Judge.

ORDER

The Department of Justice moves without opposition to reform the official caption to designate the Merit Systems Protection Board as respondent. Separately, Earl T. Barnett moves for a 40-day extension of time, until February 23, 2009, to obtain counsel and file his brief.

Barnett filed an appeal with the Board alleging that his resignation from his cook foreman position was involuntary. The Board concluded that it did not have jurisdiction over Barnett's claim because, as a probationary employee, he did not have appeal rights.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns the procedure or jurisdiction of the Board. In this

case, the Board dismissed the appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

(1) The Department of Justice's motion to reform the official caption is granted.

The revised official caption is reflected above.

(2) Barnett's motion for an extension of time is granted.

FOR THE COURT

FEB 24 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: Earl T. Barnett
Joan Stentiford Swyers, Esq.
Bernard Doyle, Esq.

FEB 24 2009

**JAN HORBALY
CLERK**

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