

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3014

ALEXANDER GARCIA-RIVERA,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

Petition for review of the Merit Systems Protection Board in NY0752080161-I-1.

ON MOTION

Before PROST, Circuit Judge.

ORDER

The Department of Veterans Affairs moves to reform the official caption to designate the Merit Systems Protection Board as respondent.

Alexander Garcia-Rivera filed an appeal with the Board challenging the termination of his employment as a housekeeping aide. The Board concluded that it did not have jurisdiction over Garcia-Rivera's claim because his appeal was untimely filed.

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:

The motions are granted. The revised official caption is reflected above.

FOR THE COURT

FEB 4 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

FEB 04 2009

**JAN HORBALY
CLERK**

cc: Alexander Garcia-Rivera
Jane C. Dempsey, Esq.
Michael Carney, Esq.

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