

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2010-3066

PAULA A. SMITH,

Petitioner,

v.

DEPARTMENT OF THE ARMY,

Respondent.

Petition for review of the Merit Systems Protection Board in  
case no. DC0752090716-I-1.

ON MOTION

ORDER

Paula A. Smith moves for leave to proceed in forma pauperis. The Merit Systems Protection Board submits correspondence indicating that Smith's case is still pending before the Board.

Smith seeks review in this court of the Board's initial decision. However, she has also sought review of the Board's initial decision by the full Board. She may not pursue both petitions simultaneously. Thus, unless Smith informs this court within 21 days of the date of filing of this order that she has dismissed her petition for review by the full Board, we will dismiss this petition as premature.

Accordingly,

IT IS ORDERED THAT:

(1) If Smith does not inform this court within 21 days of the date of filing of this order that she has dismissed her petition for review at the Board, this court will dismiss this petition as premature.

(2) Brown's motion for leave to proceed in forma pauperis is granted.

(3) If Smith timely informs the court that she has dismissed her petition at the Board, then the respondent's brief is due within 60 days of the date of filing of this order.

JAN 29 2010

Date

FOR THE COURT

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Paula A. Smith  
Russell A. Shultis, Esq.

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

**JAN 29 2010**

**JAN HORBALY  
CLERK**