

NOTE: This order is nonprecedential.

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

2010-3030

CRAIG STEVEN MORSE,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent,

and

DEPARTMENT OF HOMELAND SECURITY,

Intervenor.

On petition for review of the Merit Systems Protection Board  
in AT3330090571-I-1.

ON MOTION

ORDER

The Department of Homeland Security moves without opposition to reform the official caption to designate the Merit Systems Protection Board as the respondent and moves for leave to intervene. The Department also moves for an enlargement of 40 days from date of filing this order to file its principal brief. The Department states that Morse opposes.

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. The deciding agency is designated as the respondent when the Board reaches the merits of the underlying case.

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

Accordingly,

IT IS ORDERED THAT:

- (1) The motions are granted. The revised official caption is reflected above.
- (2) Within seven days of the date of filing of this order, Craig Steven Morse is directed to serve or deliver two copies of his opening brief to counsel for the Board.
- (3) The Board and Department's briefs are due within 50 days from the date of filing of this order.

FOR THE COURT

FEB 25 2010

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Steven L. Herrick, Esq.  
Scott D. Austin, Esq.  
Jeffrey Gauger, Esq.

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

FEB 25 2010

**JAN HORBALY**  
**CLERK**