

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-3063

ORVILLE W. J. LAYTON,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent,

and

DEPARTMENT OF THE ARMY,

Intervenor.

Petition for review of the Merit Systems Protection Board in
case no. DC0752080226-I-1.

ON MOTION

ORDER

The Department of the Army moves without opposition to reform the caption to name the Merit Systems Protection Board as respondent and the Department as intervenor. Orville W. J. Layton moves for "access to original MSPB record."

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

To the extent that Layton is requesting access to the Board record, any such request must be directed to the Board, which retains the record pending disposition of this

petition. Fed. Cir. R. 17(a); Guide for Pro Se Petitioners and Appellants, paragraph 11.

Accordingly,

IT IS ORDERED THAT:

(1) The Department's motion is granted. The revised official caption is reflected above.

(2) Layton's motion is denied.

(3) The Board's and Department's briefs are due within 21 days of the date of filing of this order.

FOR THE COURT

APR 01 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Orville W. J. Layton
Joseph A. Pixley, Esq.
Sara B. Rearden, Esq. (copy of petitioner's informal brief enclosed)

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FILED
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THE FEDERAL CIRCUIT

APR 01 2010

JAN HORBALY
CLERK