

APPENDIX A-1

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

HENRY E. GOSSAGE,
Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent

2020-2178

Petition for review of the Merit Systems Protection
Board in No. SE-0731-01-0261-I-2.

HENRY E. GOSSAGE,
Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent

2020-2194

Petition for review of the Merit Systems Protection
Board in No. SF-0731-13-0252-I-1.

HENRY E. GOSSAGE,
Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent

2020-2195

Petition for review of the Merit Systems Protection
Board in No. SE-0731-01-0261-I-5.

ON MOTION

PER CURIAM.

ORDER

The Office of Personnel Management (OPM) moves to dismiss the above-captioned petitions for lack of jurisdiction. Henry E. Gossage has not responded.

Mr. Gossage's petitions concern a matter before the Merit Systems Protection Board that has been closed since 2009. He identifies case number SE-0731-01-0261-I-2 in which the Board issued a decision in September 2004 that was subsequently vacated by this court in *Gossage v. Office of Personnel Management*, 163 F. App'x 909 (Fed. Cir. 2006), and remanded for further proceedings. He also identifies No. SE-0731-01-0261-I-5, which was assigned to the same controversy after our remand in which the Board issued its final decision in March 2009. *Gossage v. Office of Pers. Mgmt.*, No. SE-0731-01-0261-I-5, 2009 WL 982584 (M.S.P.B. Mar. 24, 2009). Finally, he identifies SF-0731-13-0252-I-1, which was initially assigned to a submission Mr. Gossage filed with the Board's Western Regional Office in February 2013 and seven days later construed as a motion to reopen SF-0731-01-0261-I-5 and forwarded to the Board. The Board subsequently informed Mr. Gossage

through letters that he had no further right to review of that decision, and this court has explained that those letters were not subject to our review. *Gossage v. Office of Pers. Mgmt.*, No. 2018-1970 (Fed. Cir. Oct. 3, 2018), ECF No. 22.

We agree with OPM that we lack jurisdiction over these petitions. This court previously vacated the Board's September 2004 decision. The Board's subsequent decision on remand in SE-0731-01-0261-I-5 became final upon the Board's March 24, 2009 denial of Mr. Gossage's petition for review. See 5 C.F.R. § 1201.113(b) ("If the Board denies all petitions for review, the initial decision will become final when the Board issues its last decision denying a petition for review."). Mr. Gossage had 60 days to file an appeal from that decision, which he failed to do. See 5 U.S.C. § 7703(b)(1); *Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1016 (Fed. Cir. 2017). Finally, we have already determined that the letters identified in connection with SF-0731-13-0252-I-1 are not reviewable.

Accordingly,

IT IS ORDERED THAT:

- (1) The motions are granted. The petitions are dismissed.
- (2) Each side shall bear its own costs.
- (3) All other pending motions are denied.

FOR THE COURT

October 20, 2020
Date

/s/ Peter R. Marksteiner

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ISSUED AS A MANDATE: October 20, 2020