

NOTE: This order is nonprecedential.

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

CYRIL D. ORAM, JR.,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2022-1736

Petition for review of the Merit Systems Protection Board in No. DC-4324-21-0450-I-1.

Before LOURIE, CHEN, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

In response to the court's June 27, 2022 order to show cause, the Merit Systems Protection Board urges dismissal of Cyril D. Oram, Jr.'s petition for review as premature. Mr. Oram has not filed a response.

Mr. Oram filed an appeal at the Board from a decision of the Department of the Air Force withdrawing a job offer. At Mr. Oram's request, the administrative judge on January 19, 2022 issued an order dismissing the appeal without prejudice to refile by April 20, 2022. On April 20, 2022,

Mr. Oram refiled his appeal. On April 23, 2022, this court received Mr. Oram's petition to review the January 19, 2022 order. Since the docketing of this petition, the administrative judge has granted Mr. Oram's second request to dismiss without prejudice, subject to automatic refiling "on or about October 10, 2022." ECF No. 14, Appx 17–18.

This court's review of Board decisions is limited to final orders or final decisions. *See* 28 U.S.C. § 1295(a)(9); *see also Weed v. Soc. Sec. Admin.*, 571 F.3d 1359, 1361 (Fed. Cir. 2009). Board dismissals without prejudice are not final for purposes of judicial review in cases such as this where the petitioner requests the dismissal and the Board leaves the option of refiling. *See Strausbaugh v. Merit Sys. Prot. Bd.*, 401 F. App'x 524, 526 (Fed. Cir. 2010). We therefore dismiss for lack of jurisdiction. Mr. Oram may petition this court for review after issuance of a final decision.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

August 29, 2022
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court