NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

_____

GODWIN OBOT,
Petitioner

v.

DEPARTMENT OF DEFENSE,
Respondent

_____

2022-2195

_____

Petition for review of the Merit Systems Protection Board in No. CH-0752-20-0601-I-1.

_____

ON MOTION

_____

PER CURIAM.

O R D E R

The Department of Defense ("the agency") moves to dismiss this petition for review for lack of jurisdiction. Godwin Obot has not responded.

Mr. Obot appealed his removal from the agency to the Merit Systems Protection Board, alleging discrimination as an affirmative defense. After the administrative judge issued an initial decision affirming the agency's removal, Mr. Obot petitioned the Board for review. On July 7, 2022, the

Board issued its final decision denying the petition and affirming the administrative judge's decision. This court received Mr. Obot's petition for review on September 7, 2022. His submissions before this court indicate that he wishes to continue to pursue his discrimination claims. *See* ECF No. 11 at 2–3; ECF No. 10.

We agree with the agency that this court lacks jurisdiction over this case. Where, as here, certain types of discrimination claims were asserted before the Board and the petitioner seeks judicial review of such claims, the appropriate forum for review is federal district court. *See* 5 U.S.C. § 7703(b)(2); *Perry v. Merit Sys. Prot. Bd.*, 137 S. Ct. 1975, 1985 (2017). Although the agency urges dismissal over transfer, we deem it appropriate to transfer, pursuant to 28 U.S.C. § 1631, to the United States District Court for the Northern District of Ohio and for that court to address any issues concerning timeliness.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to dismiss, ECF No. 14, is denied.

(2) This case and all pending motions and other transmittals are transferred to the United States District Court for the Northern District of Ohio.

FOR THE COURT

December 22, 2022   /s/ Peter R. Marksteiner
        Date   Peter R. Marksteiner
                                     Clerk of Court