

APPENDIX A

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|--------------------|--------|--------------------------------|
| December 9, 2022 | ORDER | Court of Appeals |
| July 25, 2022 | ORDER | USDC Western Washington |
| November 27, 2019 | LETTER | Merit Systems Protection Board |
| September 27, 2004 | ORDER | Merit Systems Protection Board |

APPENDIX E

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|-------------------|-------------------|---------------------------------------|
| May 16, 2001 | Karen McCue | Suitability LETTER |
| May 16, 2001 | Karen McCue | Request for Suitability Determination |
| December 27, 2004 | Kimberly Truckley | Request for Suitability Determination |

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 9 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

HENRY GOSSAGE,

Plaintiff-Appellant,

v.

**OFFICE OF PERSONNEL
MANAGEMENT; U.S. DEPARTMENT OF
LABOR,**

Defendants-Appellees.

No. 22-35643

D.C. No. 3:04-cv-05669-RJB
Western District of Washington,
Tacoma

ORDER

Before: TASHIMA, S.R. THOMAS, and CLIFTON, Circuit Judges.

Upon a review of the record, the opening brief received on September 12, 2022, and the response to the court's October 12, 2022 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 5), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

No further filings will be entertained in this closed case.

DISMISSED.

MN/MOATT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HENRY E. GOSSAGE,

Plaintiff,

V.

OFFICE OF PERSONNEL
MANAGEMENT, UNITED STATES
DEPARTMENT OF LABOR.

Defendant.

CASE NO. C04-5669 RJB

ORDER DENYING MOTION

17 This matter comes before the Court on Plaintiff's July 14, 2022 pleading entitled "Appeal
18 by Permission FRAP 5 5 C.F.R. § 1201.118 (2004) 5 U.S.C. § 7701(e)(1)(B) (2004) 5 C.F.R. §
19 1201.115(d)(1) (2004)," which should be construed as a motion. Dkt. 68. The Court has
20 considered the motion and the remainder of the record.

21 On March 24, 2005, the Court issued an order transferring this case to the United States
22 Court of Appeals for the Federal Circuit as an appeal of the September 27, 2004, decision of the
23 Merit System Protection Board. Dkt. 47. Plaintiff appealed the Court's order. On August 22,

1 2005, the Ninth Circuit U.S. Court of Appeals dismissed the appeal for lack of jurisdiction. See
2 Dkt. 58 and 58.

3 On May 7, 2014, Plaintiff filed a motion for reconsideration of the Court's March 24,
4 2005 order transferring the case to the Federal Circuit. Dkt. 59. Plaintiff contended that the U.S.
5 attorney perpetrated a fraud on the Court by concealing from him and from the Court new and
6 material exculpatory evidence. *Id.* Plaintiff requested that the Court vacate its order transferring
7 the case to the Federal Circuit. *Id.*

8 On May 7, 2014, the Court denied the Plaintiff's May 7, 2014 motion, holding that it did
9 have jurisdiction over this case. Dkt. 60. That order noted that jurisdiction lies with the Federal
10 Circuit and that the Plaintiff's motion was frivolous. *Id.*

11 The Plaintiff appealed the May 7, 2014 order. Dkt. 61. The Ninth Circuit Court of
12 Appeals affirmed this Court's order on September 25, 2014. Dkt 64.

13 On July 14, 2022, the Plaintiff filed the instant motion, asking for an order granting him
14 "appeal by permission based on new and material exculpatory evidence . . . obtained through an
15 April 21, 2011, Freedom of Information Act request." Dkt. 68. He also moves the Court for an
16 order reopening these proceedings, for it to make its own ruling, and to vacate all other
17 decisions. *Id.*

18 The Plaintiff's motion (Dkt. 68) should be denied as frivolous. As stated in the May 7,
19 2014 Order (and as affirmed by the Ninth Circuit Court of Appeals) this Court does not have
20 jurisdiction over this case.

21 Further, other than a Notice of Appeal, any document Plaintiff files in this case in the
22 future will be docketed by the Clerk but will not be acted upon by the Court.

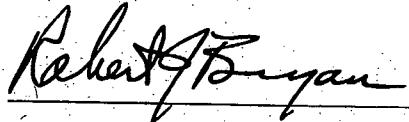
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1 **IT IS SO ORDERED.**

2 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
3 to any party appearing *pro se* at said party's last known address.

4 Dated this 25th day of July, 2022.

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7 ROBERT J. BRYAN
8 United States District Judge
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**Additional material
from this filing is
available in the
Clerk's Office.**