

No. _____

In the SUPREME COURT OF THE UNITED STATES

HENRY E. GOSSAGE, Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Respondents.

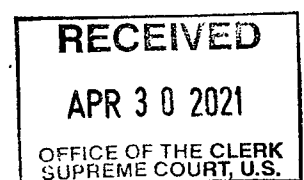
On Petition for Writ of Certiorari to the
United States Court of Appeals for the Federal Circuit

MOTION FOR LEAVE TO PROCEED AS A VETERAN

Pro se veteran respectfully request to proceed in this Court without fees or costs from Federal Circuit Court of Appeals 2021-1026. This case is intertwined with Federal Circuit cases 2020-2171, 2020-2178, 2020-2194, 2020-2195 in OPM Investigation Case 01-904-277 and its Two conflicting OPM 5 C.F.R. § 731 et seq. suitability decisions (May 16, 2001 and December 27, 2004).

Petitioner will show that he was entitled to proceed as a Veteran in this Court without fees or costs as a Veteran. Petitioner under 38 U.S.C. § 4323(h) and Supreme Court Rule 40, exempting from payment of filing fees and costs in OPM investigation case 01-904-277. The following documents is submitted in support of this motion:

1. DD 214 Honorable Discharge;
2. OSH-00-87-01/S-1 Certificate of Eligibles CPS Veteran;
3. November 30, 2000-Pass Over authorization of preference veteran;



4. May 16, 2001-OPM Negative Suitability Determination, debarment, and employment disqualification;
5. December 27, 2004-OPM VACATED Karen McCue's May 16, 2001, Negative Suitability Determination, reinstating Petitioner's Veteran rights to initial Federal Employment.
6. "DO NOT DISCLOSE OUTSIDE OF OPM", OPM's Kimberly Truckley's December 27, 2004, Final OPM decision, Overturning/Vacating Karen McCue's May 16, 2001, initial negative suitability decision.

Petitioner was denied to initial federal employment, as a preference eligible veteran under USERRA. Petitioner's USERRA, VEOA, 5 U.S.C. § 3318, 5 C.F.R. § 300.104 and 5 U.S.C. § 2302 rights were violated in OPM Investigation Case 01-904-277. OPM implemented an employment concealment policy, 5 U.S.C. § 2302(b)(13), and policy/practice, 5 C.F.R. § 300.104, from Lead Specialist Kim Truckley's December 27, 2004, Final OPM 5 C.F.R. § 731 et seq. suitability decision, amending/vacating OPM's Karen McCue's May 16, 2001, negative suitability determination. Based on OPM new, material, and Final December 27, 2004, decision, Henry E. Gossage submitted a new USERRA/VEOA appeal to the MSPB, MSPB SE-0731-01-0261-I-2 and Federal Circuit Court of Appeals (2021-1026), in OPM Investigation Case 01-904-277.

For the above reasons, Petitioner respectfully request the Court accept this petition without costs under Supreme Court Rule 40 and/or 38 U.S.C. § 4323(h).

DATED: April 19th, 2021
Respectfully Submitted,

/s/ Henry E. Gossage
Henry E. Gossage, Pro se Veteran
9421 Johnson Pt Lp NE
Olympia, WA 98516

No. _____

In the SUPREME COURT OF THE UNITED STATES

HENRY E. GOSSAGE, Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT (OPM), Respondent.

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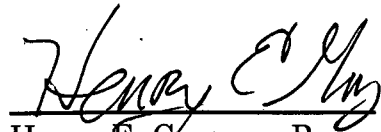
AFFIDAVIT IN SUPPORT

MOTION FOR LEAVE TO PROCEED AS A VETERAN

I, Henry E. Gossage, am the Petitioner in the above-entitled case (USCA 2021-1026), declares that I am a wartime Veteran in support of my motion to proceed as a Veteran, pursuant to Supreme Court Rule 40.

DATED: May 4, 2021

Respectfully Submitted,



Henry E. Gossage, Pro se Veteran
9421 Johnson Pt Lp NE
Olympia, WA 98516

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

2021-1026

Petition for review of the Merit Systems Protection Board
in No. SE-0731-01-0261-L-3.

PER CURIAM.

O R D E R

Having considered the parties' responses to the court's November 3, 2020 order to show cause, we dismiss.

By way of background, Henry E. Gossage previously filed an appeal at the Merit Systems Protection Board challenging the Office of Personnel Management (OPM)'s decision disqualifying him from a position with the Occupational Safety and Health Administration and disbarring him from federal government employment. While those proceedings were pending, OPM withdrew its disbarment but sustained OSHA's request to disqualify Mr. Gossage. After additional proceedings, the Board issued a final decision in March 2009 sustaining that

determination. Since then, Mr. Gossage has made several unsuccessful attempts to reopen that Board decision.

On September 9, 2020, Mr. Gossage filed a petition for review at this court, which identified a May 8, 2020 letter from the Board's regional office informing him that his request to reopen a suitability appeal was being forwarded to the Office of the Clerk of the Board for consideration. The Clerk of the Board informs this court that no further action by the Board was taken on that repetitive request.

Mr. Gossage's response to this court's show cause order further suggests that he may also be attempting to seek this court's review of a December 27, 2004 notation on an OPM form stating that Mr. Gossage's "[e]ligibility [was] reinstated during MSPB appeal." Pet'r's Resp. at Ex. B.

We agree with OPM that Mr. Gossage has not shown that this court has jurisdiction over his petition. To begin, the May 2020 letter identified in the petition is merely an administrative response to Mr. Gossage's submission forwarding the letter to the Board. It is not "a final order or decision" of the Board that is subject to our review under 28 U.S.C. § 1295(a)(9). *See McCarthy v. Merit Sys. Prot. Bd.*, 809 F.3d 1365, 1370 (Fed. Cir. 2016). As to OPM's December 2004 notation, Mr. Gossage insists that "[n]o decision on the MERITS from OPM's December 27, 2004 New and Final determination has been adjudicated by the MSPB and Federal Circuit." Pet'r's Resp. at 3. However, even if this were true and not subject to the finality of the March 2009 decision, we would still lack jurisdiction because we have no authority to directly review OPM decisions. *See In re McAfee*, 65 F. App'x 292 (Fed. Cir. 2003).

Accordingly,

IT IS ORDERED THAT:

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

December 18, 2020

Clerk of Court

* Circuit Judge Hughes did not participate.

APPENDIX A-2

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

HENRY E. GOSSAGE, Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT, Respondent

2021-1026

Petition for review of the Merit Systems Protection Board
in No. SE-0731-01-0261-L-3.

**ON PETITION FOR PANEL REHEARING AND
REHEARING EN BANC**

Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK,
MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN,
and STOLL, *Circuit Judges*.*

PER CURIAM.

ORDER

Henry E. Gossage filed a combined petition for panel rehearing and rehearing en banc. The petition was referred to the panel that issued the order, and thereafter the petition or rehearing en banc was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

The mandate of the court will issue on February 12, 2021.

February 5, 2021

FOR THE COURT
/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

* Circuit Judge Hughes did not participate.

**Additional material
from this filing is
available in the
Clerk's Office.**