

NOTE: This order is nonprecedential.

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

DAMIAN R. NASTRI,
Petitioner

v.

DEPARTMENT OF HOMELAND SECURITY,
Respondent

2021-1015

Petition for review.

ON MOTION

PER CURIAM.

O R D E R

The Department of Homeland Security moves for leave to file out-of-time its response to the court's November 18, 2020 order to show cause. We grant that motion, and having considered the parties' responses to the show cause order, we dismiss this petition for lack of jurisdiction.

Mr. Nastri seeks review of decisions of the Department and of the Office of Special Counsel ("OSC"). This court's limited jurisdiction does not include direct appeals from

decisions of the Department or the OSC. See 28 U.S.C. § 1295. While Mr. Nastri could have perhaps appealed those decisions to the Merit Systems Protection Board, whose final decisions are within this court's review, 28 U.S.C. § 1295(a)(9), Mr. Nastri concedes, and the Board confirms, that he did not file such an appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for leave to file the response out of time is granted.
- (2) The petition is dismissed.
- (3) Each side shall bear its own costs.

FOR THE COURT

January 21, 2021
Date

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

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Petition for review.

ON PETITION FOR REHEARING EN BANC

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

PER CURIAM.

O R D E R

Damian R. Nastri filed a petition for rehearing en banc. The petition was first referred as a petition for rehearing to the panel that issued the order, and thereafter the petition for 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 April 13, 2021.

FOR THE COURT

April 6, 2021

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court