

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE**

MARTIN AKERMAN,
Appellant,

DOCKET NUMBER
DC-0752-23-0457-I-1

v.

DEPARTMENT OF THE ARMY,
Agency.

DATE: May 4, 2023

ORDER DENYING REQUEST FOR RECONSIDERATION

On May 4, 2023, the appellant filed a request for reconsideration of the Order Denying Motion for Certification of Interlocutory Appeal (Order). *See* Appeal File (AF), Tab 10. Therein, he did not raise any new arguments or cite any authority to support his request. *Id.* Instead, he merely stated his motion, *see* AF, Tab 7, did meet the requirement set forth in 5 C.F.R. § 1201.92. AF, Tab 10. Regardless of how the appellant characterizes his request, the law on this issue (i.e., whether the Board will appoint counsel) is unequivocal – the Board is not required to appoint counsel. *See Thompspon v. United States Coast Guard*, 11 M.S.P.R. 461, 462 (1982); *Robinson v. Veterans Administration*, 33 M.S.P.R. 483, 486 (1987). For these reasons, the appellant’s request is **DENIED**.

Turning to the appellant’s request in regard to his avenues of appeal or to file a petition for review of the Order, there is no direct appeal from an administrative judge’s ruling on a motion to certify an interlocutory appeal as such matters are properly raised in petition for review after the administrative judge issues an initial decision. 5 C.F.R. § 1201.93(b)(“If the judge denies the motion, the party that sought certification may raise the matter at issue in a petition for review filed **after the initial decision is issued**”) (emphasis added).

Bauer v. Department of Treasury, 4 M.S.P.R. 357 (1980); *Warren v. Office of Personnel Management*, 15 M.S.P.R. 353 (1983); *Ragland v. Internal Revenue Service*, 2 M.S.P.R. 238 (1980) (review of an administrative judge's denial of certification of an interlocutory appeal is not available during the course of the proceedings).

FOR THE BOARD:

/S/

Joshua Henline
Administrative Judge

CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

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May 4, 2023

(Date)

/s/

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