

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

MARTHA MARSHALL,
Appellant,

DOCKET NUMBER
CH-831M-11-0770-I-1

v.

OFFICE OF PERSONNEL
MANAGEMENT,
Agency.

DATE: September 18, 2012

THIS ORDER IS NONPRECEDENTIAL*

Michael W. Fine, Esquire, Sheffield Village, Ohio, for the appellant.

James Williams, Washington, D.C., for the agency.

BEFORE

Susan Tsui Grundmann, Chairman
Anne M. Wagner, Vice Chairman
Mark A. Robbins, Member

ORDER

The administrative judge in this case has certified for interlocutory appeal his ruling that denied Ms. Marshall's October 12, 2011 request to reopen a separate Board appeal, captioned as *Arlene Smith In Re: Paul D. Marshall v. Office of Personnel Management*, MSPB Docket No. AT-0831-10-0059-B-1.

* A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions. In contrast, a precedential decision issued as an Opinion and Order has been identified by the Board as significantly contributing to the Board's case law. See [5 C.F.R. § 1201.117\(c\)](#).

Because the administrative judge correctly found that he lacked the authority to reopen an appeal in which the Board has issued a final decision, *see Lincoln v. U.S. Postal Service*, [113 M.S.P.R. 486](#), ¶ 10 n.2 (2010), we AFFIRM his ruling. However, we issue a separate order reopening the *Arlene Smith* appeal pursuant to the full Board's authority under [5 C.F.R. § 1201.118](#). *See Arlene Smith In Re: Paul D. Marshall v. Office of Personnel Management*, MSPB Docket No. AT-0831-10-0059-R-1.

We RETURN this appeal, MSPB Docket No. CH-831M-11-0770-I-1, to the Central Regional Office. The administrative judge shall dismiss this appeal without prejudice to refiling pending a new final decision in the *Arlene Smith* appeal.

FOR THE BOARD:

William D. Spencer
Clerk of the Board

Washington, D.C.