

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

JOHN YERESSIAN,  
Appellant,

DOCKET NUMBERS  
SF-0752-10-0972-C-1  
SF-0752-09-0049-C-3

v.

DEPARTMENT OF THE ARMY,  
Agency.

DATE: January 29, 2013

**THIS FINAL ORDER IS NONPRECEDENTIAL<sup>1</sup>**

John Yeressian, Pasadena, California, pro se.

Boyd R. Tyson, Los Angeles, California, pro se.

Larry F. Estrada, Esquire, Los Angeles, California, for the agency.

**BEFORE**

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

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<sup>1</sup> A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions.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\(c\)](#).

## FINAL ORDER

Boyd R. Tyson has petitioned for review of the compliance initial decision in the above-referenced matters. For the reasons set forth below, we DISMISS Mr. Tyson's petition for review with prejudice.

On December 22, 2011, the administrative judge granted the appellant's request for a protective order on behalf of Mr. Tyson, an agency employee. *See Yeressian v. Department of the Army*, MSPB Docket No. SF-0752-09-0049-D-3, Tab 2. Mr. Tyson filed a petition for enforcement, claiming that he was harassed and retaliated against by the agency in violation of the protective order. *Yeressian v. Department of the Army*, MSPB Docket Nos. SF-0752-10-0972-C-1, SF-0752-09-0049-C-3, Compliance File (CF), Tab 1. The administrative judge issued a compliance initial decision, which denied Mr. Tyson's petition for enforcement. CF, Tab 13. Mr. Tyson filed a petition for review, and the agency filed a response. Petition for Review (PFR) File, Tabs 6, 48.<sup>2</sup>

After Mr. Tyson's petition for review was filed, the agency submitted a Stipulation Dismissing with Prejudice All Claims of Third Party Boyd R. Tyson in the Appeals and Petitions for Review of the appellant, John Yeressian. *See* PFR File, Tab 47 at 7-13. The Stipulation, which was signed by Mr. Tyson and lists the above-referenced docket numbers, among others, "dismisses with prejudice all claims, requests for relief, complaints, appeals, petitions, and causes of action of whatsoever kind and nature" in the appellant's appeals and petitions

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<sup>2</sup> The appellant submitted a facsimile cover sheet entitled "Petition for Review" and bearing the above-referenced C-3 docket number; however, there was no substantive petition for review attached to this cover sheet. *See* PFR File, Tab 21. In another submission bearing the C-3 docket number, the appellant claims that he is resubmitting his petition for review to the Board, but there appears to be no substantive submission associated with this filing. *See* PFR File, Tab 30. In light of our disposition, we need not address these apparent omissions or the issue of whether the appellant has standing to file a petition for review of the compliance initial decision involving Mr. Tyson's petition for enforcement of the protective order. We also deny the agency's January 24, 2013 motion for leave to file an additional pleading.

for review. *Id.* Consistent with the terms of the Stipulation,<sup>3</sup> we find that dismissal of Mr. Tyson's petition for review "with prejudice to refiling" (i.e., the parties normally may not refile this appeal) is appropriate under these circumstances.

This is the final order of the Merit Systems Protection Board in this appeal regarding Mr. Tyson's petition for review of the compliance initial decision in the above-referenced matters. Title 5 of the Code of Federal Regulation, section 1201.113 ([5 C.F.R. § 1201.113](#)<sup>4</sup>).

**NOTICE REGARDING  
YOUR FURTHER REVIEW RIGHTS**

You have the right to request the United States Court of Appeals for the Federal Circuit to review this final decision. You must submit your request to the court at the following address:

United States Court of Appeals  
for the Federal Circuit  
717 Madison Place, N.W.  
Washington, DC 20439

The court must receive your request for review no later than 60 calendar days after the date of this order. *See* [5 U.S.C. § 7703](#)(b)(1)(A) (as rev. eff. Dec. 27, 2012). If you choose to file, be very careful to file on time. The court has held that normally it does not have the authority to waive this statutory deadline and

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<sup>3</sup> It appears that the Stipulation was signed pursuant to a Negotiated Settlement Agreement and General Release, which also bears the above-referenced docket numbers as well as equal employment opportunity docket numbers. *See* PFR File, Tab 49. Mr. Tyson and his representative signed the Negotiated Settlement Agreement and General Release. *Id.*

<sup>4</sup> Except as otherwise noted in this decision, we have applied the Board's regulations that became effective November 13, 2012. We note, however, that the petition for review in this case was filed before that date. Even if we considered the petition under the previous version of the Board's regulations, the outcome would be the same.

that filings that do not comply with the deadline must be dismissed. *See Pinat v. Office of Personnel Management*, [931 F.2d 1544](#) (Fed. Cir. 1991).

If you need further information about your right to appeal this decision to court, you should refer to the federal law that gives you this right. It is found in Title 5 of the United States Code, section 7703 ([5 U.S.C. § 7703](#)) (as rev. eff. Dec. 27, 2012). You may read this law as well as other sections of the United States Code, at our website, <http://www.mspb.gov/appeals/uscode/htm>. Additional information is available at the court's website, [www.cafc.uscourts.gov](http://www.cafc.uscourts.gov). Of particular relevance is the court's "Guide for Pro Se Petitioners and Appellants," which is contained within the court's [Rules of Practice](#), and [Forms](#) 5, 6, and 11.

FOR THE BOARD:

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William D. Spencer  
Clerk of the Board

Washington, D.C.