



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for December 5, 2014

The U.S. Court of Appeals for the Federal Circuit issued the following nonprecedential decision this week:

Petitioner: Kenneth B. Beyers

Respondent: Department of State

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Numbers: [2014-3071](#) and [2014-3096](#)

MSPB Docket No. DC-3330-11-0538-M-1 and DC-4324-11-0661-I-4

Issuance Date: December 3, 2014

Holding: The Court affirmed the Board's decisions to deny the petitioner's requests for corrective action under VEOA and USERRA because the appellant failed to prove his claim under either law.

Petitioner: F. Allan Midyett

Respondent: Merit Systems Protection Board

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Number: [2014-3131](#)

MSPB Docket No. DA-3330-12-0569-I-1

Issuance Date: December 3, 2014

Holding: The Court affirmed the Board's jurisdictional dismissal of the petitioner's VEOA claim because he failed to exhaust his administrative remedies.

Petitioner: Wilma C. Smith

Respondent: Office of Personnel Management

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Number: [2014-3167](#)

MSPB Docket No. SF-0831-13-0545-I-1
Issuance Date: December 4, 2014

Holding: The Court affirmed the Board's denial of the petitioner's request for a survivor annuity because service in the Merchant Marine is generally not covered by the CSRS or FERS.

Petitioner: Marcus Lewis

Respondent: Merit Systems Protection Board

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Number: [2014-3148](#)

MSPB Docket No. CB-1216-13-0063-T-1

Issuance Date: December 4, 2014

Holding: The Court affirmed the Board's decision to remove the petitioner from the federal service for violating the Hatch Act by running for political office.

Petitioner: Artemio E. Caja

Respondent: Merit Systems Protection Board

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Number: [2014-3169](#)

MSPB Docket No. SF-083-13-0312-I-1

Issuance Date: December 5, 2014

Holding: The Court affirmed the Board's decision that the petitioner was not eligible for a CSRS annuity because his position was not covered by the Civil Service Retirement Act.

Petitioner: Saswata Basu

Respondent: Merit Systems Protection Board

Tribunal: U.S. Court of Appeals for the Federal Circuit

Case Number: [2014-3164](#)

MSPB Docket No. CH-315H-13-0039-I-1

Issuance Date: December 5, 2014

Holding: The Court affirmed the Board's dismissal of the petitioner's petition for review for untimeliness because he failed to establish due diligence or good cause for the over eight-month delay in filing the petition for review.