



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for March 20, 2015

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

Petitioner: Alberto Garcia

Respondent: Department of Homeland Security

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

Case Numbers: [2014-3048](#)

Arbitration Decision Number: 13-02607-3

Issuance Date: March 13, 2015

Timeliness - Arbitration

The petitioner requested arbitration of the agency's decision to remove him from his position with the U.S. Border Patrol. The petitioner mailed his letter electing arbitration to the agency on the 28th day after the effective date of his removal, but the agency did not receive the letter until 7 days later. After an arbitrator was appointed, the agency moved to dismiss the arbitration for failure to request arbitration within 30 days of the effective date of the removal, and the arbitrator granted the request. The arbitrator held that the meaning of "filed" as construed by the governing collective bargaining agreement meant that an arbitration request was "filed" on the date it was received by the agency.

Holding: The Court reversed and remanded the arbitrator's decision.

1. For purposes of an arbitration in the federal employment context, the

filing date of an arbitration request is considered to be the date it is mailed to the agency, not the date it is received by the agency.

- **The MSPB did not issue any precedential decisions this week**

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