



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for March 17, 2017

Note: These summaries are descriptions prepared by individual MSPB employees. They do not represent official summaries approved by the Board itself, and they are not intended to provide legal counsel or to be cited as legal authority. Instead, they are provided only to inform and help the public locate Board precedents.

COURT DECISIONS

NONPRECEDENTIAL:

Mitskog v. Merit Systems Protection Board, [No. 2016-2359](#) (Mar. 13, 2017) (MSPB Docket No. DC-1221-14-1035-W-1) (affirming the Board's dismissal for lack of jurisdiction based upon the petitioner's failure to provide sufficient information about her allegations to exhaust her administrative remedy with the Office of Special Counsel).

Turner v. Merit Systems Protection Board, [No. 2017-1080](#) (Mar. 10, 2017) (MSPB Docket Nos. AT-0353-14-0838-B-1, AT-0752-15-0199-I-1) (affirming the Board's decision that the administrative judge properly dismissed the appeals for failure to prosecute because the petitioner had failed to call in to the scheduled status conference, did not explain his failure to do so, and did not respond to orders in each of his appeals; his financial difficulties did not excuse his failure to respond to repeated orders, and he did not raise his medical difficulties until his reply to the agency's petition for review at which point he did not provide documentary evidence that he lacked the capacity to respond to the administrative judge's orders).

Generette v. Merit Systems Protection Board, [No. 2017-1074](#) (Mar. 10, 2017) (MSPB Docket No. PH-3443-16-0060-I-1) (affirming the Board's dismissal for lack of jurisdiction; the agency's failure to hire the petitioner in 2015 was not reviewable as an improper denial

of her restoration rights because her absence was due to her removal in 1998 rather than any compensable injury; she was not an “employee” with Board appeal rights over her claims of an alleged constructive suspension in 1992 and her removal in 1998; the Board lacks authority to enforce the terms of a settlement agreement reached in another forum).

Payton v. Merit Systems Protection Board, [No. 2017-1068](#) (Mar. 10, 2017) (MSPB Docket No. AT-0353-16-0369-I-1) (affirming the Board’s dismissal for lack of jurisdiction based upon collateral estoppel because the issue of jurisdiction over the petitioner’s claim was identical to that in prior proceedings in which the appellant was a party, had been actually litigated, and was necessary to the judgement).

Thorne v. Merit Systems Protection Board, [No. 2017-1040](#) (Mar. 10, 2017) (MSPB Docket No. DC-3443-16-0089-I-1) (affirming the Board’s dismissal for lack of jurisdiction based upon the petitioner’s failure to nonfrivolously allege that he was actually or constructively suspended because placement on paid administrative leave does not constitute a suspension and the agency’s decision to transfer the petitioner from paid administrative leave to absence without leave was caused by his failure to comply with the agency’s instructions and communicate with his supervisors).

[MSPB](#) | [Case Reports](#) | [Recent Decisions](#) | [Follow us on Twitter](#) | [MSPB Listserv](#)