



## U.S. MERIT SYSTEMS PROTECTION BOARD

### Case Report for April 6, 2018

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#### COURT DECISIONS

##### NONPRECEDENTIAL:

*Litchfield v. Merit Systems Protection Board*, [No. 2017-2165](#) (Fed. Cir. Apr. 4, 2018) (MSPB Docket No. AT-1221-15-0621-W-1) (Rule 36 affirmance).

*Coulibaly v. Merit Systems Protection Board*, Nos. 16-1154 and 16-1155 (D.C. Cir. Apr. 3, 2018) (MSPB Docket Nos. DC-1221-15-0205-W-1, DC-1221-16-0211-W-1) (granting, by way of an unpublished decision under D.C. Circuit Rule 36, the respondent's motion for summary disposition because the petitioner did not demonstrate any error in the Board's dismissal of his individual right of action appeals as barred by the doctrine of collateral estoppel).

*Bal v. Department of the Navy*, [No. 2017-1200](#) (Fed. Cir. Mar. 30, 2018) (MSPB Docket No. SF-0752-15-0442-I-1) (vacating and remanding the Board's decision to sustain the appellant's removal because, in assessing the reasonableness of his removal, the Board improperly discounted the appellant's medical evidence that his misconduct was due to his depression, erred in requiring the appellant to show that his depression was so severe as to incapacitate him instead of assessing whether it was a mitigating factor to the charged misconduct, and failed to consider the appellant's potential for rehabilitation as a mitigating factor, the consistency of the penalty, and the adequacy and effectiveness of alternative sanctions under *Douglas v. Veterans Administration*, 5 M.S.P.B. 313 (1981)).

*Trinkl v. Merit Systems Protection Board*, [2017-1378](#) (Fed. Cir. Mar. 30, 2018) (MSPB Docket No. DC-0752-16-0387-I-1) (vacating and remanding the Board's decision to dismiss the appellant's involuntary retirement appeal for lack of jurisdiction because the Board erred in considering and dismissing the appellant's allegations of intolerable working conditions individually, rather than viewing them collectively as a series of escalating incidents culminating in the appellant's retirement, and by considering the relative probative value of the appellant's allegations prior to a jurisdictional hearing; the appellant's allegations that he was threatened with violence that compounded his Post Traumatic Stress Disorder and was forced to continue working with the supervisors involved in the threatened violence constituted nonfrivolous allegations that his working conditions were so intolerable that he could have reasonably felt driven to resign, entitling him to a jurisdictional hearing).

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