



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for October 26, 2018

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COURT DECISIONS

NONPRECEDENTIAL:

MacLean v. Department of Homeland Security, [No. 2018-1068](#) (Oct. 24, 2018) (MSPB Docket No. SF-0752-06-0611-C-1): The Court affirmed the Board's rulings regarding the appellant's request for consequential damages, a retroactive promotion, and an evidentiary hearing following his reinstatement. The Court held that it was not unreasonable for the Board to require the appellant to file receipts or doctors' notes to substantiate his claim for consequential damages (medical and dental expenses). The Court rejected the appellant's request that it overrule its precedent requiring reinstated whistleblowers to clearly establish an entitlement to a promotion and instead rule that he need only demonstrate that it was more likely than not that he would have been promoted had he not been wrongfully removed. To overrule precedent, the Court must rule en banc. Finally, the Court held that the Board did not abuse its discretion in not convening an evidentiary hearing regarding the appellant's petition for enforcement when it afforded the parties ample opportunity to submit substantial information into the record.