



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for April 26, 2019

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NONPRECEDENTIAL COURT DECISIONS

Hiller v. Department of Homeland Security, [No. 2018-1244](#) (Fed. Cir. Apr. 22, 2019) (MSPB Docket No. AT-1221-16-0687-W-1): The court affirmed the Board's decision in this individual right of action appeal. The court found that the administrative judge did not abuse his discretion by denying the petitioner's requested witnesses or by declining to postpone the hearing. On the merits, the court found that substantial evidence supported the administrative judge's finding, based on the *Carr* factors, that the agency showed by clear and convincing evidence that it would have reassigned the petitioner even absent her whistleblowing activity.

Grover v. Office of Personnel Management, [No. 2018-2102](#) (Fed. Cir. Apr. 24, 2019) (MSPB Docket No. CH-0831-13-2586-M-1): In a 2016 [decision](#), the court remanded this retirement appeal to the Board to make additional findings regarding the amount of overtime pay received by the petitioner. On remand, the Board determined that the petitioner had failed to establish that the Office of Personnel Management (OPM) erred in calculating his retirement annuity. The court affirmed. The court rejected the petitioner's argument that regulations relating to premium pay and relocation allowances, upon which OPM relied in calculating his annuity, were adopted contrary to statutory authority.

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