



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for May 3, 2019

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COURT DECISIONS

NONPRECEDENTIAL:

Coppola v. Department of Veterans Affairs, No. [2018-1301](#) (Fed. Cir. Apr. 26, 2019) (MSPB Docket No. SF-1221-17-0027-W-1): The court vacated the decision of the administrative judge that dismissed the petitioner's individual right of action (IRA) appeal for lack of jurisdiction as barred by a prior settlement agreement. The court found, contrary to the administrative judge's finding, that the waiver contained in the settlement agreement at issue was limited to claims that could arise from the petitioner's equal employment opportunity complaint and did not apply to his whistleblower retaliation claims. The court therefore remanded the appeal for consideration of his IRA appeal.

Benton v. Merit Systems Protection Board and Nuclear Regulatory Commission, No. [2015-3004](#) (Fed. Cir. Apr. 30, 2019) (MSPB Docket No. DC-1221-13-0508-W-1): The court granted in part the petitioner's motion and ordered the Board to transfer his appeal, which the court had previously remanded to the Board, from the "petition for review level" to an administrative judge for review and resolution of the remanded issues.

Mogil v. Department of Veterans Affairs, No. [2018-1673](#) (Fed. Cir. May 1, 2019) (MSPB Docket No. CH-0714-18-0060-I-1): The court affirmed the administrative judge's decision that upheld the petitioner's removal pursuant to 38 U.S.C. § 714 for damaging Government property. The court assumed, without

deciding, that it may review the reasonableness of the penalty in cases brought pursuant to section 714 and determined that the petitioner failed to show that removal was unreasonable under the circumstances. The court did not decide the statutory interpretation issue because any error by the Board in interpreting section 714 here was harmless.

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