



## U.S. MERIT SYSTEMS PROTECTION BOARD

### **Case Report for October 11, 2019**

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#### **NONPRECEDENTIAL COURT DECISIONS**

*Freeman v. Department of the Army*, No. [2019-1940](#) (Fed. Cir. Oct. 4, 2019) (MSPB Docket No. AT-0752-19-0119-I-1): The court affirmed the administrative judge's initial decision upholding the petitioner's removal for 682.75 hours of absence without leave over a 1-year period. Contrary to the petitioner's arguments, substantial evidence supported the administrative judge's finding that his absences were not approved. An agency rule providing that leave without pay should be granted to disabled veterans seeking medical treatment for a service-connected disability did not apply because there was no evidence that the petitioner's absences were related to any medical treatment. Considering the extent of the petitioner's unauthorized absences, the hardships that these absences caused in his work unit, and his previous discipline for similar offences, removal was warranted.

*Klar v. Merit Systems Protection Board*, No. [2019-1108](#) (Fed. Cir. Oct. 7, 2019) (MSPB Docket No. DC-1221-18-0590-W-1): The court affirmed, per rule 36 judgment, the administrative judge's initial decision dismissing the petitioner's individual right of action appeal for lack of jurisdiction. The petitioner's claimed personnel action, revocation of a security clearance, is not covered under the Whistleblower Protection Act.

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