



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for November 15, 2019

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NONPRECEDENTIAL COURT DECISIONS

Wiggins v. Office of Personnel Management, No. 2019-1143 (Fed. Cir. Nov. 12, 2019) (MSPB Docket No. CH-0831-18-0259-I-1): The court affirmed the administrative judge's initial decision, which affirmed the reconsideration decision of the Office of Personnel Management denying the appellant's request for a survivor annuity. The administrative judge's initial decision relied in part on *Schoemakers v. Office of Personnel Management*, 180 F.3d 1377 (Fed. Cir. 1999), in which the court held that the 2-year deadline for election of a survivor annuity set forth in 5 U.S.C. § 8339(k)(2)(A) cannot be waived based on an annuitant's mental impairment. In the instant case, the panel found that *Schoemakers* controls the issue of waiver and recognized that it is bound by that decision. It noted that, even if it were to grant the appellant's request for en banc review, the appellant's arguments for overruling *Schoemakers* are unpersuasive.

Skarada v. Department of Veterans Affairs, No. 2019-1233 (Fed. Cir. Nov. 8, 2019) (MSPB Docket No. PH-1221-17-0037-W-1): The court affirmed, per Rule 36 judgment, the administrative judge's initial decision, which denied the appellant's request for corrective action.

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