U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for May 15, 2020

COURT DECISIONS

NONPRECEDENTIAL:

Michelson v. Department of the Army, No. 2019-1811 (Fed. Cir. May 11, 2020) (MSPB Docket No. AT-0752-18-0424-I-1): The court affirmed the administrative judge's decision affirming the petitioner's removal for absence without leave, failure to follow directions, and creating a disturbance. The court concluded that the administrative judge correctly found that medical documentation the petitioner submitted to explain her absences was not administratively acceptable and that none of her remaining challenges to the administrative judge's findings were persuasive.

Searcy v. Department of Agriculture, No. 2019-2217 (Fed. Cir. May 11, 2020) (MSPB Docket No. AT-4324-17-0226-I-1): The court affirmed the administrative judge's decision dismissing for lack of jurisdiction the petitioner's appeal alleging violations of the Veterans Employment Opportunities Act of 1998 and the Uniformed Services Employment and Reemployment Rights Act of 1994. The court determined that the administrative judge properly applied res judicata to find that the Board lacked jurisdiction over claims the petitioner raised in prior appeals. The court also agreed with the administrative judge that the petitioner failed to make a nonfrivolous allegation that the Department of Labor or the Office of Special Counsel violated his rights under a statute relating

to veteran's preference by declining to reopen and investigate his complaint regarding his 1977 separation from the Department of Agriculture.