



## U.S. MERIT SYSTEMS PROTECTION BOARD

### **Case Report for July 10, 2020**

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#### **NONPRECEDENTIAL COURT DECISIONS**

*Skinner v. Department of Veterans Affairs*, [20-1312](#) (Fed. Cir. July 7, 2020) (per curiam) (MSPB Docket No. AT-1221-18-0632-W-1): The court affirmed the administrative judge's denial of corrective action in this individual right of action (IRA) appeal. The court found that substantial evidence supported his finding that the petitioner did not meet her burden of proving she made a protected disclosure that was a contributing factor in her nonselection, proposed suspension, and other alleged personnel actions. The court rejected the petitioner's attempts to shift the burden of proving such to the agency. Further, the court discerned no error in the administrative judge's determination that the petitioner's assertions that the union president created a hostile work environment, and about the agency's response thereto, did not support a finding of whistleblower reprisal.

*Taggart v. Merit Systems Protection Board*, [20-1224](#) (Fed. Cir. July 9, 2020) (per curiam) (MSPB Docket No. DC-1221-19-0496-W-1): The court affirmed the administrative judge's dismissal of the petitioner's IRA appeal for lack of jurisdiction. The court agreed that, under 5 U.S.C. § 7121(g), the petitioner's election to grieve his suspension precluded him from pursuing an IRA appeal before the Board over the same action. In particular, the court found that the agency's alleged delay in reaching a decision on his grievance had no effect on his election, as his election was "fixe[d]" on the date he filed his grievance.

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