



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for August 7, 2020

Note: These summaries are descriptions prepared by individual MSPB employees. They do not represent official summaries approved by the Board itself, and they are not intended to provide legal counsel or to be cited as legal authority. Instead, they are provided only to inform and help the public locate Board precedents.

NONPRECEDENTIAL COURT DECISIONS

Kent v. Merit Systems Protection Board, [No. 2020-1455](#) (Fed. Cir. Aug. 5, 2020) (MSPB Docket No. AT-315H-19-0661-I-1): The court affirmed the administrative judge's decision dismissing the petitioner's termination appeal for lack of jurisdiction. The court agreed with the administrative judge that the petitioner was not an "employee" under 5 U.S.C. § 7511(a)(1)(A). The court rejected the petitioner's argument that he had been reinstated and was therefore not required to serve a probationary period.

Jenkins v. Department of Transportation, [No. 2019-2075](#) (Fed. Cir. Aug. 6, 2020) (MSPB Docket No. DC-0752-18-0428-I-1): The court affirmed the administrative judge's decision affirming the petitioner's removal for inappropriate conduct, making disparaging remarks racial in nature, and lack of candor. The court rejected the petitioner's arguments as to the lack of candor charge, nexus, and penalty.

[MSPB](#) | [Case Reports](#) | [Recent Decisions](#) | [Follow us on Twitter](#) | [MSPB Listserv](#)