



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for March 5, 2021

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NONPRECEDENTIAL COURT DECISIONS

Lalliss v. Department of Veterans Affairs, No. [2020-2241](#) (Fed. Cir. March 4, 2021) (MSPB Docket No. SF-1221-20-0005-W-1): The appellant filed an individual right of action appeal with the Board, alleging that in reprisal for making whistleblowing disclosures, the agency terminated him during his probationary period. In an initial decision, which later became the Board's final decision, the administrative judge found that the appellant made whistleblowing disclosures that were a contributing factor to his termination. However, after conducting a *Carr* factor analysis, the administrative judge found that the agency proved by clear and convincing evidence that it would have terminated the appellant regardless of these disclosures, resulting in denial of his request for corrective action. On appeal, the appellant challenged the administrative judge's findings related to the *Carr* factors. The Federal Circuit affirmed the Board's final decision, holding that the administrative judge's findings on each of the *Carr* factors contained no legal error and was supported by substantial evidence. The court then summarily found as unpersuasive the remainder of the appellant's arguments.

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