**UNITED STATES OF AMERICA**
**MERIT SYSTEMS PROTECTION BOARD**

94 M.S.P.R. 300

DEBRA APPLEWHITE,
Appellant,

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Agency.

DOCKET NUMBER
DE-1221-02-0042-W-3

DATE: June 27, 2003

Debra Applewhite, Denver, Colorado, pro se.

Lori E. Kline, Esquire, Washington, D.C., for the agency.

**BEFORE**

Susanne T. Marshall, Chairman
Neil A. G. McPhie, Member

**OPINION AND ORDER**

¶1 On her own motion under 5 C.F.R. §§ 1201.91-.92, the administrative judge (AJ) in this individual right of action (IRA) appeal issued a November 27, 2002 order certifying for interlocutory appeal to the Board the issue of whether the appellant's disclosure to higher management officials of "race discrimination, harassment and creation of a hostile work environment related, in part, to Title VII" prohibited discrimination, constitutes a non-frivolous allegation that she made a protected disclosure under 5 U.S.C. § 2302(b)(8) that she reasonably believed evidenced an abuse of authority, and entitles her to a jurisdictional hearing. For the reasons discussed below, we find that the appellant has not made

a non-frivolous allegation of IRA jurisdiction that would entitle her to a hearing on the merits of her appeal, and we DISMISS this appeal for lack of jurisdiction.

## BACKGROUND

¶2 The appellant received an appointment to the excepted service position of GS-5 Office Automation Assistant in the agency's Denver District Office (DDO), Legal Unit, Denver, Colorado, effective February 9, 1993, under the provisions of 5 C.F.R. § 213.3102(u), which provide for the hiring of persons with severe disabilities who have been certified by state vocational rehabilitation agencies as likely to succeed in the performance of their duties. MSPB Docket No. DE-1221-02-0042-W-2 (W-2), Initial Appeal File (IAF), Tab 7; MSPB Docket No. DE-1221-02-0042-W-3 (W-3), IAF, Tab 20, subtab T. Subsequently, DDO Regional Attorney William Martinez, the appellant's immediate supervisor, issued a notice terminating her from that position effective February 3, 1995. W-2 IAF, Tab 7; W-3 IAF, Tab 20, subtab Z. The termination notice provided no reasons for the agency's action. *Id.*

¶3 In June 2000, the appellant filed a complaint with the Office of Special Counsel (OSC), which she supplemented with additional submissions filed with OSC. She alleged, inter alia, that DDO Director Francisco Flores, the appellant's second-level supervisor, and Regional Attorney Martinez "retaliated against [her] for making complaints," harassed her for complaining and making public improper actions Martinez was taking during her employment, and failed to grant a requested reassignment in accommodation of her disability that had been recommended by her then-supervisor, Supervisory Trial Attorney Mark Brennan, and Disability Program Manager Barbara Lawrence. She also alleged that Flores and Martinez ultimately terminated her in reprisal for her June 1994 oral disclosure to agency Associate Legal Counsels Philip Sklover and Jim Scanlan, during their visit to the DDO from the agency's headquarters, of the DDO's "racial discrimination, harassment, and creation of a hostile work environment"

against her because she had complained about unfair treatment in the DDO. W-2 IAF, Tabs 4, 7-8; W-3 IAF, Tab 14, the appellant's response to interrogatories at 3-4. The appellant asserted that her disclosures evidenced an abuse of authority. W-2 IAF, Tabs 4, 7-8. On August 31, 2001, OSC closed its file on the matter and notified the appellant of her right to seek corrective action from the Board. MSPB Docket No. DE-1221-02-0042-W-1 (W-1) IAF, Tab 1; W-2 IAF, Tab 8; W-3 IAF, Tab 20, subtab N.

¶4 The appellant timely filed this IRA appeal of her termination with the Board and requested a hearing. W-1 IAF, Tabs 1, 3. The AJ issued an order directing the appellant to file evidence and argument proving that the Board has jurisdiction over her IRA appeal. *Id.*, Tab 9. Without objection by the parties, the AJ subsequently dismissed the appeal without prejudice to refiling sua sponte by the AJ because of unavoidable mail delays and to afford the appellant an opportunity to obtain evidence from OSC. *Id.*, Tab 10.

¶5 The AJ sua sponte refiled the appeal, W-2 IAF, Tab 1, and the parties submitted evidence and argument on the jurisdictional issue, *id.*, Tabs 4, 6-8, 10. The AJ thereafter issued a June 28, 2002 order finding that, pursuant to *Yunus v. Department of Veterans Affairs*, 242 F.3d 1367, 1371 (Fed. Cir. 2001), the appellant has raised a non-frivolous allegation of IRA jurisdiction over her appeal based on her disclosure to Sklover and Scanlan about "problems with racial discrimination and harassment" in the DDO, but dismissed the appellant's claims of discrimination and retaliation for her equal employment opportunity (EEO) activity as not covered by the Whistleblower Protection Act (WPA). W-2 IAF, Tab 11 at 4-5. The AJ found that the appellant is entitled to a "jurisdictional/merits hearing" on the issue of "whether her disclosure to Sklover and Scanlan was protected and the reasonableness of her belief, whether the disclosure was a contributing factor to her [termination], and whether the agency can show by clear and convincing evidence that it would have terminated the appellant anyway." *Id.* at 5. The AJ then dismissed the appeal without prejudice

to refiling sua sponte by the AJ, without objection by the appellant, because the parties had not had sufficient time to engage in discovery and prepare for hearing. W-2 IAF, Tab 12.

¶6 The AJ sua sponte refiled the appeal. W-3 IAF, Tabs 1, 22. The agency filed a motion for reconsideration of the AJ's June 28, 2002 order finding that the appellant has raised a non-frivolous allegation of IRA jurisdiction. *Id.*, Tab 14. The agency asserted that the appellant's alleged disclosure to Sklover and Scanlan constituted a complaint about discrimination and that such a complaint, whether made within or outside the formal EEO process, is not a protected disclosure under 5 U.S.C. § 2302(b)(8). *Id.* The appellant responded in opposition to the agency's motion. W-3 IAF, Tab 20.

¶7 The AJ issued a November 27, 2002 order that denied the agency's motion for reconsideration of her June 28, 2002 order which found that the appellant has raised a non-frivolous allegation of IRA jurisdiction. W-3 IAF, Tab 24. In relevant part, the AJ found that the appellant had submitted evidence and presented non-frivolous allegations that: On February 8, 1994, the appellant met with DDO Director Flores and requested a reassignment from the immediate supervision of Regional Attorney Martinez because Martinez was harassing her; the appellant informed Flores of her specific medical disability when asking for the reassignment, and Flores told Martinez about the disability; Flores denied the appellant's request for reassignment; the appellant then met with Sklover and Scanlan in June 1994, while they were visiting the DDO from the agency's headquarters, and disclosed to them "racial discrimination, harassment, and creation of a hostile work environment" as African-American employees were not being promoted, she was being harassed because she had complained about unfair treatment in the DDO, and Flores had improperly denied her requested reassignment; and Sklover informed Flores about her statements, and several months later the appellant was terminated. *Id.* at 2. The AJ found that the appellant has made a non-frivolous allegation that she disclosed harassment on

the job by her supervisors, Flores and Martinez, that such "harassing or intimidating behavior can constitute an abuse of authority[,]" and that the appellant is entitled to a "jurisdictional hearing" to present further evidence on her allegation. *Id.* at 2-3. The AJ determined that "whether the appellant is entitled to a jurisdictional hearing when she alleges that she disclosed race discrimination, harassment and creation of a hostile work environment related, in part, to Title VII to higher management officials," when such allegations also might amount to a non-frivolous allegation of an abuse of authority, presents "an important issue of law." *Id.* at 3. Thus, on her own motion, the AJ certified her determination to the Board for an immediate ruling. *Id.*

## ANALYSIS

¶8 The Board has jurisdiction over an IRA appeal if the appellant has exhausted his administrative remedies before OSC and makes non-frivolous allegations that: He engaged in whistleblowing activity by making a protected disclosure; and the disclosure was a contributing factor in the agency's decision to take or fail to take a personnel action. *Yunus*, 242 F.3d at 1371; *Rusin v. Department of the Treasury*, 92 M.S.P.R. 298, ¶ 12 (2002). Our reviewing court has determined that "[n]on-frivolous allegations confer [IRA] jurisdiction" and that "an evidentiary hearing is unnecessary for the conferring of jurisdiction, because whether allegations are 'non-frivolous' is determined by the written record." *Dick v. Department of Veterans Affairs*, 290 F.3d 1356, 1361 (Fed. Cir. 2002); *see Spencer v. Department of the Navy*, 327 F.3d 1354, 1356 (Fed. Cir. 2003. If an appellant has established Board jurisdiction over an IRA appeal by exhausting his administrative remedies before OSC and making the requisite non-frivolous allegations, he has the right to a hearing on the merits of his claim. *Spencer*, 327 F.3d at 1356; *Dick*, 290 F.3d at 1361-62; *Huffman v. Office of Personnel Management*, 92 M.S.P.R. 429, ¶ 7 (2002); *Rusin*, 92 M.S.P.R. 298, ¶ 20.

¶9 In this case, the record shows that the appellant has exhausted her administrative remedies before OSC, and thus she satisfies that IRA jurisdictional requirement.1 W-1 IAF, Tab 1; W-2 IAF, Tabs 4, 7-8; W-3 IAF, Tab 20, subtab N; *see Yunus*, 242 F.3d at 1371; *Rusin*, 92 M.S.P.R. 298, ¶ 12. However, contrary to the AJ's determination, a jurisdictional hearing on the issues of whether the appellant engaged in whistleblowing activity by making a protected disclosure and whether the disclosure was a contributing factor in the agency's decision to terminate her is unnecessary, because whether her allegations are "non-frivolous" is determined by the written record. *See Spencer*, 327 F.3d at 1356; *Dick*, 290 F.3d at 1361; *Yunus*, 242 F.3d at 1371.

The appellant has not raised a non-frivolous allegation that she engaged in whistleblowing activity by making a protected disclosure.

¶10 Thus, we turn our review to the AJ's finding that the record shows that the appellant has raised a non-frivolous allegation that she made a protected disclosure of an abuse of authority under 5 U.S.C. § 2302(b)(8). The AJ found that the appellant has made a non-frivolous allegation that "she disclosed [to Sklover and Scanlan] race discrimination, harassment and creation of a hostile work environment related, in part, to Title VII" by her supervisors, Flores and Martinez, and that such behavior by her supervisors can constitute an abuse of authority. W-3 IAF, Tab 24 at 2-3. The agency asserts that the appellant's alleged disclosure to Sklover and Scanlan constituted a complaint about discrimination and that such a complaint is not a protected disclosure under 5 U.S.C. § 2302(b)(8). W-3 IAF, Tab 14. For the reasons set forth below, we agree with the agency.

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1 It is also undisputed in this case that the appellant's termination is a "personnel action" within the meaning of 5 U.S.C. § 2302(a)(2)(A)(iii) ("an action taken under chapter 75 of this title or other disciplinary or corrective action"); *see Sirgo v. Department of Justice*, 66 M.S.P.R. 261, 267 (1995).

¶11 The AJ found that the appellant has made a non-frivolous allegation that her disclosure to Sklover and Scanlan constitutes a disclosure of an abuse of authority. W-3 IAF, Tab 24 at 2-3. Section 2302(b)(8) prohibits reprisal for "any disclosure of information ... which the employee or applicant reasonably believes evidences - (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety …." (Emphasis added.) "Abuse of authority" is defined as "an arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to himself or to preferred other persons." *Wheeler v. Department of Veterans Affairs*, 88 M.S.P.R. 236, ¶ 13 (2001); *see, e.g., Schaeffer v. Department of the Navy*, 86 M.S.P.R. 606, ¶ 10 (2000). The definition of "abuse of authority" does not contain a de minimis standard or threshold. *Wheeler*, 88 M.S.P.R. 236, ¶ 13.

¶12 To establish that she held a reasonable belief that her disclosure evidenced an abuse of authority, the appellant need not prove that the condition disclosed actually established an abuse of authority, but she must show that the matter disclosed was one which a reasonable person in her position would believe evidenced an abuse of authority as specified in 5 U.S.C. § 2302(b)(8). *See Huffman*, 92 M.S.P.R. 429, ¶ 9; *Comito v. Department of the Army*, 90 M.S.P.R. 58, ¶ 8 (2001), *review dismissed*, 33 Fed. Appx. 506 (Fed. Cir. 2002). The test to determine whether the appellant had a reasonable belief that her disclosure evidenced an abuse of authority is whether a "disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee [could] reasonably conclude that the actions of the government evidence" an abuse of authority under 5 U.S.C. § 2302(b)(8). *See Lachance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999), *cert. denied*, 528 U.S. 1153 (2000); *Huffman*, 92 M.S.P.R. 429, ¶ 9; *Rusin*, 92 M.S.P.R. 298, ¶ 19. But, an appellant's statements regarding his alleged protected disclosures can be so deficient on their

face that the Board will find that they fail to constitute a non-frivolous allegation of a reasonable belief, and thus require dismissal for lack of jurisdiction. *Huffman*, 92 M.S.P.R. 429, ¶ 10; *Coons v. Department of the Navy*, 63 M.S.P.R. 485, 489 (1994).

¶13 Further, the law is settled that disclosures that are limited to EEO matters covered under 5 U.S.C. § 2302(b)(1) and (b)(9) are excluded from coverage under section 2302(b)(8). *See, e.g., Spruill v. Merit Systems Protection Board*, 978 F.2d 679, 690 (Fed. Cir. 1992) (filing an EEO complaint is covered by section 2302(b)(9) and thus not covered by section 2302(b)(8)); *Redschlag v. Department of the Army*, 89 M.S.P.R. 589, ¶ 84 (2001) (purported disclosures that involve alleged discrimination or reprisal for engaging in activities protected by Title VII, even if made outside of the grievance or EEO processes, do not constitute protected whistleblower activity under section 2302(b)(8) because they pertain to matters of discrimination covered by section 2302(b)(1)(A)), *review dismissed*, 32 Fed. Appx. 543 (Fed. Cir. 2002); *Gonzales v. Department of Housing & Urban Development*, 64 M.S.P.R. 314, 318 (1994) (filing an EEO complaint, testifying at another employee's EEO hearing, and assisting someone in pursuing a complaint are activities that fall within section 2302(b)(9), and thus do not constitute protected disclosures under section 2302(b)(8)); *Peterson v. Department of Transportation*, 54 M.S.P.R. 178, 183 (1992) (the employee's allegations of reprisal for allegedly providing information to an EEO investigator regarding sex and racial discrimination did not constitute "whistleblowing" disclosures under section 2302(b)(8)).

¶14 We now examine the submissions in the record to determine whether the appellant has made a non-frivolous allegation that she reasonably believed her disclosure to Associate Legal Counsels Sklover and Scanlan evidenced an abuse of authority. Before her February 3, 1995 termination, the appellant had complained to the agency of alleged discrimination based on race and disability. W-2 IAF, Tabs 7-8. In her response to the AJ's show-cause order, the appellant

stated that Sklover and Scanlan came to the DDO in June 1994 "to meet with employees regarding complaints." *Id.*, Tab 8, response to order to show cause at 6. In the next sentence, the appellant stated that "[a]t that time [she] requested an accommodation of her disability, and explained the problems with racial discrimination and harassment" in the DDO. *Id.*

¶15 In response to the agency's request for answers to interrogatories, the appellant stated that she spoke with Sklover and Scanlan and "whistleblew about racial discrimination, harassment, creation of a hostile work environment *as prohibited by Title VII in addition to failure to accommodate as prohibited by the Rehabilitation Act*." W-3 IAF, Tab 14, the appellant's response to interrogatories at 3 (emphasis supplied). She further declared that she "reasonably believed [that] … Sklover and … Scanlan were sent to investigate the things [she] had complained about." *Id.* at 4. In particular, the appellant stated that the basis for her complaint to Sklover and Scanlan was harassment due to her "previous complaints about unfair and unequal working conditions in comparison to the other clerks in the unit." *Id.* at 3. When asked to explain why she believed that Sklover and Scanlan had the authority to investigate and correct her complaint of discrimination and harassment, the appellant declared that "[t]he agency's mission is to interpret, administer and enforce *equal emploument* [sic] *discrimination laws*." *Id.* at 15 (emphasis supplied).

¶16 The appellant's written submissions plainly show that, when she spoke to Sklover and Scanlan in June 1994, she believed they had come to the DDO to investigate EEO matters. Her responses further reveal that she complained to them solely about Title VII matters, including her allegations of race and disability discrimination and her assertions of harassment and a hostile work environment resulting from that alleged discrimination. This reading of the appellant's submissions is fully supported by the undisputed actions that she took and the statements she made after speaking to Sklover and Scanlan.

¶17 The appellant also submitted a "Reasonable Accommodation Request" dated November 30, 1994, that she prepared just a few months after her conversation with Sklover and Scanlan, in which she complained of a disability that was "being aggravated" by her supervisors and "harassing allegations of errors completed in assignment." W-2 IAF, Tab 7, Bates stamped document No. 002360. This request lends further support for a finding that, as she stated in her response to the AJ's show-cause order and the agency's interrogatories, she complained to Sklover and Scanlan solely about discrimination-related matters, including harassment and a hostile work environment created by discrimination prohibited under Title VII.

¶18 Subsequently, the appellant filed a formal EEO complaint with the agency. W-2 IAF, Tab 8. In its final agency decision (FAD), the agency found no discrimination. *Id.* The appellant filed an appeal of the FAD with the Equal Employment Opportunity Commission (EEOC). *Id.* In her March 26, 1999 notice of appeal, the appellant referenced statements made by Sklover and Scanlan. W-2 IAF, Tab 7, notice of appeal at 3. More specifically, in her "Brief in Support of Notice of Appeal and Motion to Set Aside Final Agency Decision," the appellant listed her complaints as "failure to accommodate disability and intentional infliction of emotional distress by harassment (creating a hostile work environment) based on mental disability and reprisal." *Id.*, Tab 7, brief at 1. In her brief, the appellant described her June 1994 meeting with Sklover and Scanlan and mentioned in that context her allegation that she "was harassed with regard to her terms and conditions of employment." *Id.* at 2. In the section of her brief entitled "Hostile Work Environment/Harassment and Reprisal," the appellant described the alleged harassment and hostile work environment that she contended resulted from retaliation for engaging in protected EEO activity and disability discrimination. *Id.* at 22-26.

¶19 On April 6, 2000, the EEOC issued a decision in *Applewhite v. Castro*, EEOC Appeal No. 01994939 (Apr. 6, 2000), which the appellant submitted into the record. W-2 IAF, Tab 8. In its decision, the EEOC addressed the appellant's complaints of harassment. *Id.*, EEOC Decision at 2, 6. According to the EEOC, the appellant "allege[d] that the agency subjected her to harassment on the bases of her race and reprisal with respect to reprimands, assignments, leave and scrutiny," that is, an alleged hostile work environment. *Id.* at 9. The EEOC stated that the appellant could have proven these claims under discrimination law if she had shown that the harassment was "sufficiently patterned or pervasive" and directed at her because of her membership in a protected class. *Id.* The EEOC, however, determined that the appellant failed to meet her burden of proof. *Id.* The agency has made an uncontradicted statement that the appellant has now filed a civil action of her EEO case in federal district court. W-1 IAF, Tab 7, agency motion at 3 n.2.

¶20 A June 25, 2001 letter from OSC to the appellant, that informed her that OSC intended to close its investigation of her corrective action complaint filed with OSC, mentions her "statement to agency officials from EEOC headquarters in Washington, DC, that [her] supervisors treated [her] unfairly and subjected [her] to a hostile working environment." W-2 IAF, Tab 8, OSC letter at 2. OSC found that those allegations "do not constitute protected information." *Id.*

¶21 It is clear from the appellant's statements in response to the AJ's show-cause order and the agency's request for answers to interrogatories that she discussed the alleged harassment and hostile work environment with Sklover and Scanlan exclusively as part of her complaint about EEO matters at the agency. The appellant's formal complaint of discrimination and appeal to the EEOC confirm that she has always considered the purported harassment and hostile work environment to be part of her claim of ongoing discrimination prohibited by 5 U.S.C. § 2302(b)(1) and (b)(9).

¶22 The appellant's statements and allegations show that she believed that Sklover and Scanlan had come from the agency's headquarters to investigate her ongoing complaints of discrimination in the DDO, including her claim of harassment and a hostile work environment from her EEO activity and her race and alleged disability. She related these matters in her June 1994 meeting with Sklover and Scanlan in that context solely as a discrimination matter. When the appellant did not get satisfaction from Sklover and Scanlan, or anyone else at the agency, she filed a formal discrimination complaint, which included the same allegations of harassment and hostile work environment due to the purported discrimination. When she received a FAD that was not favorable to her position, she sought review from the EEOC. The appellant's submissions to the EEOC and the EEOC's decision show that the harassment and hostile work environment claims were integral to her allegation of prohibited activity under discrimination law. In addition, OSC concluded that the claims of harassment and hostile work environment were not protected under the WPA. Having received no relief in any of the forums mentioned above, the appellant has filed this IRA appeal with the Board.

¶23 We find that the uncontradicted evidence and the appellant's statements conclusively and consistently show that she did not make a protected disclosure to Sklover and Scanlan. Rather, her complaint to those individuals was the same as it has been throughout her search for relief -- that the agency engaged in discrimination and a pattern of harassment and created a hostile work environment in violation of Title VII. However, as stated above, such disclosures that are limited to EEO matters covered under 5 U.S.C. § 2302(b)(1) and (b)(9) are excluded from coverage under section 2302(b)(8). *See Spruill*, 978 F.2d at 690; *Redschlag*, 89 M.S.P.R. 589, ¶ 84; *Gonzales*, 64 M.S.P.R. at 318; *Peterson*, 54 M.S.P.R. at 183. Under these circumstances, we find that the appellant has not raised a non-frivolous claim that the matters she allegedly disclosed to Sklover and Scanlan during their visit from the agency's headquarters to the DDO

were ones that a reasonable person in her position would believe evidenced an abuse of authority as specified in 5 U.S.C. § 2302(b)(8). *See White*, 174 F.3d at 1381; *Huffman*, 92 M.S.P.R. 429, ¶ 9; *Rusin*, 92 M.S.P.R. 298, ¶ 19. Thus, because the appellant's statements regarding her alleged protected disclosures are so deficient on their face that they fail to constitute a non-frivolous allegation of a reasonable belief, we must dismiss her IRA appeal for lack of jurisdiction. *See Huffman*, 92 M.S.P.R. 429, ¶ 10; *Coons*, 63 M.S.P.R. at 489.

## CONCLUSION

¶24 In sum, we conclude that the appellant has exhausted her OSC remedy, but that the written record shows that she has not raised a non-frivolous allegation that she made a protected whistleblowing disclosure. Therefore, her appeal is not within the Board's jurisdiction.2 *See Yunus*, 242 F.3d at 1371; *Rusin*, 92 M.S.P.R. 298, ¶ 12.

## ORDER

¶25 Accordingly, we dismiss this appeal for lack of jurisdiction. This is the final order of the Merit Systems Protection Board in this appeal. 5 C.F.R. §§ 1201.91, 1201.113.

## NOTICE TO THE APPELLANT REGARDING YOUR FURTHER REVIEW RIGHTS

You have the right to request the United States Court of Appeals for the Federal Circuit to review this final decision. You must submit your request to the court at the following address:

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2 Because the appellant has not made a non-frivolous allegation that she engaged in whistleblowing activity by making a protected disclosure, it is unnecessary to determine whether she has raised a non-frivolous allegation that her disclosure was a contributing factor in the agency's decision to terminate her. *See Yunus*, 242 F.3d at 1371; *Rusin*, 92 M.S.P.R. 298, ¶ 12.

United States Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

The court must receive your request for review no later than 60 calendar days after your receipt of this order. If you have a representative in this case, and your representative receives this order before you do, then you must file with the court no later than 60 calendar days after receipt by your representative. If you choose to file, be very careful to file on time. The court has held that normally it does not have the authority to waive this statutory deadline and that filings that do not comply with the deadline must be dismissed. *See Pinat v. Office of Personnel Management*, 931 F.2d 1544 (Fed. Cir. 1991).

If you need further information about your right to appeal this decision to court, you should refer to the federal law that gives you this right. It is found in Title 5 of the United States Code, section 7703 (5 U.S.C. § 7703). You may read this law as well as review the Board's regulations and other related material at our web site, http://www.mspb.gov.

FOR THE BOARD:

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Bentley M. Roberts, Jr.
Clerk of the Board

Washington, D.C.