

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
CENTRAL REGIONAL OFFICE**

JAPHET RIVERA,  
Appellant,

DOCKET NUMBER  
CH-0707-15-0469-J-1

v.

DEPARTMENT OF VETERANS  
AFFAIRS,  
Agency.

DATE: June 9, 2015

Jonathan Bell, Garden City, New York, for the appellant.

Susan Tylar, Garden City, New York, for the appellant.

Christina Knott, Washington, D.C., for the agency.

Demetrious A. Harris, Esquire, Dayton, Ohio, for the agency.

Shelley D. Cutts, Phoenix, Arizona, for the agency.

**BEFORE**

Michele Szary Schroeder  
Chief Administrative Judge

**DECISION**

A hearing was scheduled in this matter at the U.S. District Court in Urbana, Illinois on June 8, 2015. A decision was announced at the start of the hearing and it is fully documented in the attached partial hearing transcript. The partial transcript contains the complete decision and related reasoning and legal references. The date on which the bench decision was announced at the hearing was its effective date.

**DECISION**

The Appeal is dismissed as settled.

FOR THE BOARD:

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Michele Szary Schroeder  
Chief Administrative Judge

**NOTICE TO APPELLANT**

Pursuant to 38 U.S.C. § 713(e)(2), this decision is final and not subject to any further appeal.

**ENFORCEMENT**

The settlement agreement has been made part of the record. If you believe there has not been full compliance with the terms of the agreement, you may ask the Board to enforce the agreement by filing a petition for enforcement with this office.

Your petition for enforcement must describe specifically the reasons why you believe there is noncompliance. It must include the date and results of any communications regarding compliance, and a statement showing that a copy of the petition was either mailed or hand-delivered to the agency.

Any petition for enforcement must be filed within a reasonable period of time after you discover the asserted noncompliance. If you believe that your petition is filed late, you should include a statement and evidence showing good cause for the delay and a request for an extension of time for filing.

UNITED STATES OF AMERICA  
 MERIT SYSTEMS PROTECTION BOARD  
 CHICAGO REGIONAL OFFICE

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JAPHET RIVERA,	)	
	)	
Appellant,	)	
	)	Docket Number
v.	)	CH-0707-15-0469-J-1
	)	
DEPARTMENT OF	)	
VETERANS AFFAIRS,	)	
	)	
Agency.	)	

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Courtroom A  
 U.S. District Court  
 201 S. Vine Street  
 Urbana, Illinois

Monday,  
 June 8, 2015

The above-entitled matter came on for hearing,  
 pursuant to notice, at 8:30 o'clock a.m.

BEFORE: MICHELE SZARY SCHROEDER  
 Chief Administrative Judge

## APPEARANCES:

On behalf of the Agency:

CHRISTINA KNOTT, ESQ. (via telephone)  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, DC 20420  
(202) 697-2232

## I N D E X

WITNESSESDIRECTCROSSREDIRECTRE CROSS

P R O C E E D I N G S

(8:37 a.m.)

CHIEF ADMIN. JUDGE SZARY SCHROEDER: Good morning, my name is Michele Schroeder. I am the Administrative Judge assigned to the matter of Japhet Rivera v. Department of Veterans Affairs. This matter was scheduled for hearing today. It is June 8, 2015. We are in Urbana, Illinois at the U.S. District Courthouse.

Last night the parties reached a settlement in principle and early this morning I received a fully executed settlement agreement. So at this point I will announce a bench decision.

On May 28, 2015, Japhet Rivera filed an appeal challenging the Department of Veterans Affairs' action to remove him from employment as the Director of the Danville V.A. Center. This action was taken pursuant to the Veterans Access, Choice, and Accountability Act of 2014, See 38 U.S.C. 713. The Merit Systems Protection Board has jurisdiction of this matter pursuant to that statute.

The parties have presented to me a written settlement agreement that has been fully executed by all parties; it can be found at tab 54 of the record. It has been signed by the Appellant, Japhet Rivera; by Appellant's counsel, Jonathan Bell; by Agency counsel, Christina Knott; and by the

Deputy Secretary of the Department of Veterans Affairs, Sloan Gibson.

Before I discuss the settlement agreement I just would like to commend counsel on both sides for their diligence and civility. The time constraints under which this appeal had to be processed were difficult, at best, for everyone involved. That being said, the terms of the settlement agreement fully resolve the issues raised by this appeal. Public policy favors settlement agreements, which serve to avoid unnecessary litigation and to encourage fair and speedy resolution of issues. See Yeto v. U.S. Postal Service, 41 M.S.P.R. 402, 404 (1989).

I find the settlement agreement is lawful on its face and the parties freely entered into the agreement and understand its terms. I, therefore, dismiss this appeal as settled; also, a notice to the Appellant that pursuant to 38 U.S.C. Section 713(e)(2), this decision is final and not subject to any further appeal. Anything from the Agency?

MS. KNOTT: No, Your Honor.

CHIEF ADMIN. JUDGE SZARY SCHROEDER: All right, this matter is concluded and this appeal has been dismissed. Thank you, Ms. Knott for your time.

MS. KNOTT: Thank you, Your Honor.

(Whereupon, at 8:40 a.m., the above-entitled matter was concluded.)