

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Archuleta v. Hopper

773 F.3d 1289 (Fed. Cir. 2014) (prior opinion withdrawn and replaced) · No. 2013-3177 · Decided May 13, 2015

SUMMARY

The United States Court of Appeals for the Federal Circuit granted the Office of Personnel Management's petition for rehearing for the limited purpose of clarifying that the Merit Systems Protection Board had jurisdiction to review Tony D. Hopper's debarment and cancellation of eligibilities as part of a unified penalty arising from the same circumstances as his removal. The court denied the petition in all other respects and withdrew and replaced its prior opinion.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Per Curiam; Lourie, Circuit Judge; O'Malley, Circuit Judge; Reyna, Circuit Judge
JURISDICTION	Federal
DECIDED	May 13, 2015
DOCKET	2013-3177
DISPOSITION	other
PROCEDURAL POSTURE	Petition for rehearing en banc of a Federal Circuit decision reviewing the Merit Systems Protection Board; the court granted rehearing for the limited purpose of clarifying its prior opinion and denied it in all other respects.
PRECEDENTIAL VALUE	published
PARTIES	Katherine Archuleta, Director, Office of Personnel Management v. Tony D. Hopper, Merit Systems Protection Board

TOPICS

[merit systems protection board](#)

[federal employment law](#)

[administrative law](#)

[appellate procedure](#)

PRACTICE AREAS

[administrative law](#)

[federal employment law](#)

[civil service](#)

QUESTIONS PRESENTED

1. Whether the Merit Systems Protection Board had jurisdiction to review Hopper's debarment and cancellation of eligibilities when those measures formed part of a unified penalty arising from the same circumstances as his removal.

HOLDINGS

1. The Merit Systems Protection Board had jurisdiction to review Hopper's debarment and cancellation of eligibilities as part of a unified penalty arising from the same set of circumstances as his removal.

KEY QUOTATIONS

“the Merit Systems Protection Board had jurisdiction to review Respondent Tony D. Hopper’s debarment and cancellation of eligibilities as part of a unified penalty arising from the same set of circumstances as his removal.” (2)

“The prior opinion in this appeal, which issued on December 8, 2014, and was reported at Archuleta v. Hopper, 773 F.3d 1289 (Fed. Cir. 2014), is withdrawn and replaced with the revised opinion accompanying this order.” (2)

FACTUAL BACKGROUND

Tony D. Hopper was subject to removal as well as debarment and cancellation of eligibilities. The Federal Circuit treated the debarment and cancellation of eligibilities as part of a unified penalty arising from the same set of circumstances as the removal.

PROCEDURAL HISTORY

The case arose from Merit Systems Protection Board matter No. CH0731090798-I-3 involving Tony D. Hopper's removal, debarment, and cancellation of eligibilities. The Federal Circuit's prior opinion issued on December 8, 2014, and was reported at 773 F.3d 1289, but that opinion was withdrawn. On OPM's petition for rehearing en banc, the court issued this order clarifying the Board's jurisdiction and directed that a revised opinion replace the withdrawn opinion.

DISPOSITION

other

CASES CITED

- Archuleta v. Hopper, 773 F.3d 1289 (Fed. Cir. 2014)

OPINION

PER CURIAM.

United States Court of Appeals for the Federal Circuit _____ KATHERINE ARCHULETA, Director, Office of Personnel Management, Petitioner v. TONY D. HOPPER,

Respondent MERIT SYSTEMS PROTECTION BOARD, Respondent _____
2013-3177 _____ Petition for review of the Merit Systems Protection Board
in No. CH0731090798-I-3. _____ ON PETITION FOR REHEARING EN
BANC _____ Before LOURIE, O'MALLEY, and REYNA, Circuit Judges.

PER CURIAM. ORDER Katherine Archuleta, Director of the Office of Person- nel Management ("OPM"), filed a petition for rehearing en banc. A response to the petition was invited by the court
2 ARCHULETA v. HOPPER and filed by Respondent Merit Systems Protection Board and Respondent Tony D. Hopper.

After careful considera- tion, the panel grants OPM's petition for the limited purpose of clarifying this court's opinion. IT IS ORDERED THAT: (1) OPM's petition for rehearing is granted for the limited purpose of clarifying that the Merit Sys- tems Protection Board had jurisdiction to review Respondent Tony D. Hopper's debarment and can- cellation of eligibilities as part of a unified penalty arising from the same set of circumstances as his removal.

In all other respects, the petition is de- nied. (2) The prior opinion in this appeal, which issued on December 8, 2014, and was reported at Ar- chuleta v. Hopper, 773 F.3d 1289 (Fed. Cir. 2014), is withdrawn and replaced with the revised opin- ion accompanying this order. FOR THE COURT
May 13, 2015 /s/ Daniel E. O'Toole Date Daniel E. O'Toole Clerk of Court