

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

SHERMAN S. STARTZ,
Appellant,

DOCKET NUMBER
SF-1221-23-0258-W-1

v.

DEPARTMENT OF THE ARMY,
Agency.

DATE: May 22, 2023

SUMMARY OF TELEPHONIC STATUS CONFERENCE

On today's date, I held a telephonic status conference with the parties in this appeal. The appellant, who is self-represented, timely appeared for the conference. Agency counsel Gwendolyn Smith failed to appear for the conference, so I asked Paralegal Specialist Stacy Abbott to contact her at the telephone number she had provided to the Board to ask her to join the conference. Ms. Abbott called Ms. Smith at the phone number she provided, but Ms. Smith did not answer Ms. Abbott's call, nor did the call go into Ms. Smith's voicemail, so Ms. Abbott was unable to leave a voicemail message. As there was no indication that Ms. Smith would be participating in the conference, I then proceeded to hold the conference with the appellant. The following is a summary of the conference and any rulings made therein.

Settlement

The appellant informed me that the agency had not yet responded to his request for them to participate in the Mediation Appeals Program (MAP). I explained that the agency was not under a duty to participate in MAP, but that if the agency elected to do so, the appeal would be referred by the Board to the

MAP program, and all proceedings would be stayed pending the outcome of the parties' settlement negotiations.

Discovery

The appellant informed me that he had propounded discovery requests on the agency on May 16, 2023, and was awaiting a response. I briefly explained the discovery process to him, including the timelines set forth in the Board's discovery rules, which are set out in detail at 5 C.F.R. § 1201.71-85. I encouraged the appellant to review those rules so he was familiar with the discovery process and the deadlines imposed by those rules.

Close of Record

I notified the appellant that I had mistakenly indicated in my Order Finding Jurisdiction that a part of the purpose of this status conference would be to set the hearing schedule, when in fact the appellant did not request a hearing within the time frame set forth in the Board's Acknowledgment Order. As the appellant did not timely request a hearing, my initial decision will be based solely on the written record. I explained to the appellant the process in a "close of record" appeal, and briefly summarized the parties' respective burdens of proof at this stage of the proceedings, which burdens are set forth in more detail in my Order Finding Jurisdiction. I informed the appellant that I would issue a separate Close of Record Order setting out the close of record date.

As there were no further matters to discuss, I ended the conference.

Objections

Any objections to this Summary must be filed by **May 30, 2023**, or they shall be deemed waived.

FOR THE BOARD:

/S/
Michael S. Shachat
Administrative Judge

CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

Appellant

Electronic Mail Sherman S. Startz
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Agency Representative

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May 22, 2023
(Date)

/S/
Stacy Abbott
Paralegal Specialist