

**BEFORE THE
MERIT SYSTEM PROTECTION BOARD
FOR
MONTGOMERY COUNTY, MARYLAND**

IN THE MATTER OF

[REDACTED],

APPELLANT,

AND

**MONTGOMERY COUNTY
GOVERNMENT,**

EMPLOYER

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CASE NO. 23-12

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ORDER OF DISMISSAL

On April 20, 2023, the Merit System Protection Board (MSPB or Board) received by electronic mail an appeal concerning Appellant’s requests for transfers and leave with the Department of Recreation. That same day the Board’s Executive Director sent Appellant a letter acknowledging receipt of the appeal, explaining the need for supporting documentation, and referencing Appellant’s previous appeal concerning the same matters that was filed on September 7, 2022. That appeal was dismissed without prejudice on December 6, 2022, due to failure to comply with the Board’s appeal procedures, for lack of jurisdiction, and for failure to exhaust administrative remedies. MSPB Case No. 23-04 (December 6, 2022). The Board received an email response from Appellant shortly thereafter explaining:

When I came into work today, I noticed several emails in my sent box that I did not send. What you received was sent over a year ago. I have ended my fight with Recreation and have tried to move on. I don’t know how or why these emails were in my sent emails, but please disregard.

I did not send any emails today...

On April 24, 2023, the County requested that this appeal be dismissed because it was filed in error.


Although Appellant’s email is not identical to the one he sent in 2022 he expressly states that this appeal was filed in error and that he wishes to have the Board disregard the appeal. Pursuant to MCPR) §35-7(d), the Board may dismiss an appeal if the appeal becomes moot. The

Board has long taken the position that the withdrawal of an appeal renders that appeal moot. MSPB Case No. 22-14 (2021); MSPB Case No. 21-02 (2020); MSPB Case No. 17-18 (2017).

Accordingly, it is hereby **ORDERED** that the appeal in Case No. 23-12 be and hereby is **DISMISSED**.

If any party disagrees with the decision of the Merit System Protection Board, pursuant to Montgomery County Code, §33-15, *Judicial review and enforcement*, and MCPR, §35-18, *Appeals to court of MSPB decisions*, within 30 days of this Order a petition for judicial review may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under the Maryland Rules, Chapter 200, Rule 7-202.

For the Board
April 26, 2023


Harriet E. Davidson
Chair