

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

JOSEPH C. PAYNE,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2023-2204

Petition for review of the Merit Systems Protection Board in No. PH-3443-21-0363-I-1.

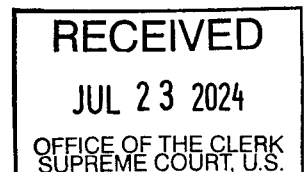
Decided: July 16, 2024

JOSEPH C. PAYNE, Millsboro, DE, pro se.

STEPHEN FUNG, Office of General Counsel, United States Merit Systems Protection Board, Washington, DC, for respondent. Also represented by ALLISON JANE BOYLE, KATHERINE MICHELLE SMITH.

Before DYK, REYNA, and STOLL, *Circuit Judges.*

PER CURIAM.



Joseph Payne appeals a final decision of the Merit Systems Protection Board that dismissed his Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) claim as barred by the doctrine of laches. See *Payne v. U.S. Postal Serv.*, No. PH-3443-21-0363-I-1, 2023 WL 4359452 (M.S.P.B. July 5, 2023) (*Board Decision*). For the following reasons, we affirm.

BACKGROUND

Before and after Mr. Payne served in the U.S. Army—most recently from January 2003 to June 2004—he worked for the United States Postal Service (USPS). After Mr. Payne’s honorable discharge from the U.S. Army in June 2004, he returned to his position at the Fredericksburg, Virginia Post Office. In April 2008, he applied for a position as a Vehicle Operations & Maintenance Assistant (VOMA) with the USPS, but another individual was selected.

On May 24, 2008, Mr. Payne filed a formal Equal Employment Opportunity (EEO) complaint with the USPS EEO office. Although Mr. Payne asserted four claims in his complaint, only one relates to this appeal: his non-selection for the VOMA position with the USPS. S. Appx.¹ 9–10, 57–64; Appellant’s Informal Br. at 3. Mr. Payne’s USPS EEO complaint contended that his non-selection for the VOMA position was discrimination based on religion, age, and disability as well as retaliation for his prior EEO activity. Mr. Payne argued that he was more senior and experienced than the individual hired and, therefore, he should have been selected for the VOMA position.

The USPS EEO office issued a Final Agency Decision dismissing Mr. Payne’s complaint after finding that

¹ S. Appx. refers to the Supplemental Appendix attached to Appellee’s Informal Response Brief, ECF No. 28.