

NOTE: Pursuant to Fed. Cir. R. 47.6, this disposition is not citable as precedent. It is a public record.

United States Court of Appeals for the Federal Circuit

06-3125

CHARLES A. POWELL, JR.,

Petitioner,

v.

DEPARTMENT OF JUSTICE,

Respondent.

DECIDED: July 12, 2006

Before MICHEL, Chief Judge, FRIEDMAN, Senior Circuit Judge, and MAYER, Circuit Judge.

PER CURIAM.

Charles A. Powell, Jr. appeals the final decision of the Merit Systems Protection Board, approving his settlement agreement with the Department of Justice for entry into the record and dismissing his appeal. Powell v. Dep't of Justice, DE0752040675-I-2 (MSPB Aug. 18, 2005). We affirm.

We must affirm the board's decision unless it was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures

required by law, rule or regulation having been followed; or unsupported by substantial evidence. See 5 U.S.C. § 7703(c) (2000). On March 31, 2005, Powell entered into a settlement agreement resolving the department's personnel action against him. The record demonstrates that Powell understood the terms of the agreement and voluntarily, even if begrudgingly, entered into it. As such, his argument that he was coerced into settling is without merit, and the board properly approved the agreement for entry into the record by its April 1, 2005, initial decision. Relatedly, Powell's argument that the board erred by declining to reopen proceedings in his case in light of his April 4, 2005, request that the agreement be rescinded is also without merit. Once an agreement is filed and accepted by the board, its terms may be avoided only upon a showing that it is "tainted with invalidity." Cf. Asberry v. United States Postal Serv., 692 F.2d 1378, 1380 (Fed. Cir. 1982). Therefore, the board correctly construed Powell's request to rescind the agreement as a request for reconsideration, and because he failed to establish any ground for such reconsideration, it properly denied his request.