

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 01-5277**

**September Term, 2002**

Filed On: September 30, 2002 [704944]

William E. Shea, Appellant

v.

United States of America and  
Department of State, Appellees

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Consolidated with 01-5305

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Appeals from the United States District Court for the District of Columbia  
(Nos. 00cv00748 & 98cv00021)

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Before: HENDERSON, TATEL and GARLAND, *Circuit Judges*.

## **J U D G M E N T**

This cause was considered on the records on appeal from the United States District Court for the District of Columbia, the briefs of the parties, and oral arguments by counsel. After full review, the court is satisfied that appropriate disposition of the cause does not warrant an opinion. *See* FED. R. APP. P. 36; D.C. CIR. R. 36(b). It is

**ORDERED** and **ADJUDGED** that the Foreign Service Grievance Board's decisions are affirmed substantially for the reasons set forth in the district court's opinions. Although the Board's factual findings are not due deference under *Chevron U.S.A. Inc. v. Natural Resources Defense Council*, 467 U.S. 837, 842-43 (1984), *see Shea v. United States*, No. 00-748, slip op. at 7, 15-16 (D.D.C. June 27, 2001), its interpretations of foreign service regulations are accorded deference if reasonable, *United States v. Paddack*, 825 F.2d 504, 513-14 (D.C. Cir. 1987), and its findings may be reversed under the Administrative Procedure Act only if they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A); 22 U.S.C. § 4140. Petitioner conceded at oral argument that he had waived the issue concerning the denial of discovery by failing to raise it in the court below.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. R. 41(a)(1).

*Per Curiam*

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY:

Michael C. McGrail

Deputy Clerk