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*Federal Courts in the District of Columbia Resurrect Service Members'
Right to Direct Judicial Review of Personnel Actions*

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Abstract by Carol Willette

This advisory article proposes that, in the realm of military personnel actions, direct judicial review of APA claims is a discretionary right. The article addresses cases supporting that claim. It then reviews the benefits and drawbacks of utilizing direct judicial review depending on the circumstances of the case. The *Feres* doctrine, under which courts would refuse to apply the “ordinary sweep” of remedial, generally applicable statutes to military personnel, is rejected because the APA was enacted consistent with pre-existing mechanisms for servicemen to bring non-tort actions. Consequently, *Darby* is binding despite the passage of the Selection Board Act of 2001 (SBA). Under the SBA and *Darby*, service members may directly bring APA claims, without exhaustion of remedies, as long as the claim does not include certain specific board actions. The article notes that administrative remedies may have a certain appeal. For instance, the Board has the authority to grant relief beyond legal error. Additionally, the Board has the discretion to consider new evidence. However, the article concludes that, as there are benefits to both, both direct judicial review and administrative action should be considered.