

NOTE: This order is nonprecedential.

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

DAVID B. WHITE,
Petitioner,

v.

DEPARTMENT OF DEFENSE,
Respondent.

2013-3115

Petition for review of the Merit Systems Protection Board in No. DA3330110261-B-1.

ON MOTION

Before NEWMAN, REYNA, AND WALLACH, *Circuit Judges.*

PER CURIAM.

O R D E R

David B. White asks the court to proceed with his petition for review, which was returned as untimely. The court treats this request as a motion for reconsideration of the court's previous rejection of Mr. White's petition for review.

The Merit Systems Protection Board (“Board”) issued its final order on March 1, 2013. Mr. White received the order via electronic mail on March 1, 2013.* Mr. White submitted a “petition for review” with this court on April 29, 2013, via facsimile. Per Federal Circuit Rule 25, a petition for review may not be filed via facsimile. Accordingly, no appeal was docketed. On May 13, 2013, more than 60 days after the date he received the Board’s final decision, Mr. White filed his petition for review with the court via United States mail.

Our review of a Board decision or order is governed by 5 U.S.C. § 7703(b)(1), which provides in relevant part that “[n]otwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.” 5 U.S.C. § 7703(b)(1)(A) (2012). This filing period is “statutory, mandatory, [and] jurisdictional.” *Monzo v. Dep’t of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984); *see also Bowles v. Russell*, 551 U.S. 205 (2007) (the timely filing of a notice of appeal in a civil case is a jurisdictional requirement that cannot be waived).

Because Mr. White’s petition was not received within 60 days of the date he received the Board’s decision, we must dismiss his petition as untimely.

*Mr. White is a registered electronic filer with the Board. The regulation governing the dates for service of electronic documents states, in relevant part, “MSPB documents served electronically on registered e-filers are deemed received on the date of electronic submission.” 5 C.F.R. § 1201.14(m)(2).

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Accordingly,

IT IS ORDERED THAT:

(1) Mr. White's motion for reconsideration is denied, and his petition is dismissed.

(2) All sides shall bear their own costs.

FOR THE COURT

/s/ Daniel E. O'Toole

Daniel E. O'Toole

Clerk

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ISSUED AS A MANDATE: June 19, 2013