

NOTE: This order is nonprecedential.

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

EUGENIO M. DELOS SANTOS,
Claimant-Appellant,

v.

**Eric K. Shinseki, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2013-7072

Appeal from the United States Court of Appeals for
Veterans Claims in No. 11-632, Judge Kenneth B. Kra-
mer.

ON MOTION

Before NEWMAN, REYNA, and WALLACH, *Circuit Judges.*
PER CURIAM.

ORDER

The Secretary of Veterans Affairs moves to dismiss
this appeal as untimely.

On August 7, 2012, the United States Court of Ap-
peals for Veterans Claims (Veterans Court) entered

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judgment in Eugenio M. Delos Santos' case. According to the docket of the Veterans Court, the court received Santos' notice of appeal on February 26, 2013, 203 days after the date of judgment.

To be timely, a notice of appeal must be filed with the Veterans Court within 60 days of the entry of judgment. *See* 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). The statutory deadline for taking an appeal to this court is jurisdictional and thus mandatory. *Henderson v. Shinseki*, 131 S. Ct. 1197, 1204-05 (2011) (the language of Section 7292(a) "clearly signals an intent" to impose the same jurisdictional restrictions on an appeal from the Veterans Court to the Federal Circuit as imposed on appeals from a district court to a court of appeals); *see also Bowles v. Russell*, 551 U.S. 205 (2007). Because Santos' appeal as to the underlying judgment was filed outside of the statutory deadline for taking an appeal to this court, we must dismiss the appeal.*

Accordingly,

IT IS ORDERED THAT:

- (1) The motion is granted.
- (2) The appeal is dismissed.
- (3) Each side shall bear its own costs.

* The Secretary also correctly points out that Santos' "motion for reconsideration" received by the Veterans Court on November 5, 2012 was untimely and does not toll the jurisdictional time period for appeal to this court. We agree. *See* Fed. R. App. P. 4(a)(1), *Bowles v. Russell*, 551 U.S. 205 (2007)

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FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk

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ISSUED AS A MANDATE: June 18, 2013