

NOTE: This order is nonprecedential.

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

ROBERT D. FRANKLIN,
Petitioner,

v.

DEPARTMENT OF VETERANS AFFAIRS,
Respondent.

2014-3042

Petition for review of the Merit Systems Protection Board in No. AT0752120454-I-1.

ON MOTION

PER CURIAM.

O R D E R

Upon review of this recently docketed petition for review, it appears that Robert D. Franklin's petition was not timely filed.

On September 18, 2013, the Merit Systems Protection Board denied Franklin's petition for review of an initial decision that sustained his removal due to misconduct. Franklin states in a submission to this court that he

received the Board's final order on September 21, 2013. The court received his petition for review on December 2, 2013; which was 75 days after the Board issued its final order and 72 days after Franklin states that he received the Board's final order.

The time for filing a petition for review from 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). This filing period is "statutory, mandatory, [and] jurisdictional." *Monzo v. Dep't of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984).

Accordingly,

IT IS ORDERED THAT:

(1) Franklin is directed to show cause, within 21 days of the date of filing of this order, why this petition should not be dismissed as untimely. The Department of Veterans Affairs may also respond within that time.

(2) The briefing schedule is stayed.

FOR THE COURT

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