

NOTE: This order is nonprecedential.

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

ROBERT W. STEELE,
Petitioner,

v.

DEPARTMENT OF AGRICULTURE,
Respondent.

2014-3055

Petition for review of the Merit Systems Protection Board in No. CH-0752-12-0680-L-1.

ON MOTION

PER CURIAM.

ORDER

The United States Department of Agriculture moves to dismiss this appeal for lack of jurisdiction. Robert Steele has not responded.

After this court issued its mandate in one of his previous petitions, Mr. Steele filed a letter, received by this court on January 2, 2014, in which he addresses his demotion and reassignment but does not identify any

decision of the Merit Systems Protection Board (MSPB). This court docketed the letter on January 6, 2014 as a new petition for review. Subsequently, the MSPB submitted the certified list, which identified three MSPB decisions concerning Mr. Steele, dated December 5, 2012, May 16, 2013, and June 7, 2013.

The court agrees with the agency that Mr. Steele's submission must be dismissed. The Rules of Appellate Procedure require that a petition properly designate the order to be challenged. *See* Fed. R. App. P. 15(a)(2)(C) (requiring petition to "specify the order or part thereof to be reviewed."); *City of Benton v. Nuclear Regulatory Comm'n*, 136 F.3d 824, 826 (D. C. Cir. 1998); *Gottesman v. Immigration Naturalization Servs.*, 33 F.3d 383, 388 (4th Cir. 1994) (jurisdictional requirements of Rule 15(a) may not be waived). Here, while Mr. Steele's submission indicates general dissatisfaction with the MSPB, it fails to identify any decision of the MSPB from which he was seeking review.

More importantly, to the extent that Mr. Steele's submission should be read as intending to petition from one of the MSPB decisions identified in the certified list, his petition would be untimely. "[A]ny 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). In order to be timely, a petition for review must be received by the court within the filing deadline. *Pinat v. Office of Pers. Mgmt.*, 931 F.2d 1544, 1546 (Fed. Cir. 1991); Fed. R. App. P. 25(a)(2)(A). This filing period is "statutory, mandatory, [and] jurisdictional." *See Monzo v. Dep't of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984). Here, even if Mr. Steele intended to appeal the most recently issued MSPB decision, approximately six months passed between that decision and his letter to this court.

Accordingly,

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IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) All other pending motions are denied as moot.
- (3) Each side shall bear its own costs.

FOR THE COURT

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

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ISSUED AS A MANDATE: August 5, 2014