

NOTE: This order is nonprecedential.

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

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**JOSE E. ROSARIO-FABREGAS,**  
*Petitioner,*

v.

**DEPARTMENT OF THE ARMY,**  
*Respondent.*

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2014-3092

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Petition for review of the Merit Systems Protection Board in No. NY-0752-10-0127-P-1.

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PER CURIAM.

**ORDER**

Upon review of this recently docketed petition for review, it appears that Jose E. Rosario-Fabregas's petition was not timely filed.

On December 30, 2013, the Merit Systems Protection Board denied Rosario-Fabregas's petition for review of an initial decision that denied his motion for damages in connection with his appeal. The court received his petition for review on March 4, 2014; which was 64 days after the Board issued its 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) Rosario-Fabregas 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 the Army 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