

NOTE: This order is nonprecedential.

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

MARILYN LEAK,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2014-7015

Appeal from the United States Court of Appeals for
Veterans Claims in No. 09-4010, Judge Alan G. Lance, Sr.

Before RADER, *Chief Judge*, DYK and WALLACH, *Circuit
Judges.*

PER CURIAM.

O R D E R

On November 25, 2013, the court directed the parties to show cause why this appeal should not be dismissed as untimely. The Secretary responds and argues that Marilyn Leak's appeal should be dismissed as untimely. Leak has not responded.

The United States Court of Appeals for Veterans Claims (“Veterans Court”) entered judgment on July 18, 2011. That court received Leak’s notice of appeal on October 11, 2013, 816 days after the date of judgment.

Any appeal from the Court of Appeals for Veterans Claims must be received within 60 days of the date of entry of judgment. 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 mandatory. *See Bowles v. Russell*, 551 U.S. 205, 209 (2007); *see also Henderson v. Shinseki*, 131 S. Ct. 1197, 1204-05 (2011) (noting Congress’s intent to impose the same jurisdictional restrictions on an appeal from the Veterans Court to the Federal Circuit as on an appeal from a district court to a court of appeals). Because Leak’s appeal 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 appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

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