

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2007-3152

MIGUEL P. PADERES,

Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

ON MOTION

Before SCHALL, GAJARSA, and LINN, Circuit Judges.

PER CURIAM.

ORDER

The Office of Personnel Management moves (1) to waive the requirements of Fed. Cir. R. 27(f), and (2) to dismiss, for lack of jurisdiction, Miguel P. Paderes' petition for review of the decision of the Merit Systems Protection Board in case no. CB-1205-06-0019-U-1. Paderes has not responded.

Paderes sought an annuity under the Civil Service Retirement System (CSRS). The Office of Personnel Management denied his application. Paderes appealed to the Board. In 1994, the Board affirmed the denial of benefits because Paderes was not covered by CSRS. In 1995, this court affirmed the decision of the Board.

In 2006, Paderes filed with the Board a request for review of an Office of Personnel Management regulation. The Board did not address the merits of his request for review of the regulation. Instead, on February 5, 2007, the Board denied the request

for review as barred by res judicata. Paderes petitions this court for review of the Board's 2007 decision.

In Delos Santos v. Office of Personnel Management, 289 F.3d 1382 (Fed. Cir. 2002), we held that we do not have jurisdiction over a petition for review of a Board decision involving a request for review of a regulation if the Board denies review without addressing the merits of the request. Here, as in Delos Santos, the Board did not review the merits of the request to review the regulation. Thus, we do not have jurisdiction over the petition and it must be dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) The motions are granted. The petition is dismissed for lack of jurisdiction.
- (2) Each side shall bear its own costs.

FOR THE COURT

June 6, 2007
Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Miguel P. Paderes
Michael J. Dierberg, Esq.

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ISSUED AS A MANDATE: June 6, 2007