

NOTE: This order is nonprecedential.

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

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**JOSEPH CANGEMI,**  
*Petitioner,*

v.

**OFFICE OF PERSONNEL MANAGEMENT,**  
*Respondent.*

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2014-3039

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Petition for review of the Merit Systems Protection Board in No. AT0845120495-1-2.

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Before NEWMAN, MOORE, and CHEN, *Circuit Judges.*

PER CURIAM.

**O R D E R**

The parties have responded to this court's order requiring the parties to show cause why this petition should not be dismissed as untimely.

On August 9, 2013, the Merit Systems Protection Board issued a final order determining that Joseph Cangemi was not entitled to a waiver of overpayment of annuity benefits. The court received his petition for review on November 5, 2013; 88 days after the Board issued its decision. Cangemi asserts, inter alia, that mail

service is slow and that he was trying to obtain new evidence.

Our review of 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). The filing period is “statutory, mandatory, [and] jurisdictional” and the court does not have the authority to waive the requirement. *Monzo v. Dep’t of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984); *Pinat v. Office of Pers. Mgmt.*, 931 F.2d 1544, 1545 (Fed. Cir. 1991); *see also* Fed. R. App. P. 26(b)(2).

Because Cangemi’s petition seeking review of the final order was received outside of the statutory deadline for filing the petition, we must dismiss the petition.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition 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