

NOTE: This order is nonprecedential.

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

ALVIN LINCOLN,
Claimant-Appellant,

v.

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

2014-7038

Appeal from the United States Court of Appeals for
Veterans Claims in No. 12-2033, Judge Kenneth B. Kra-
mer.

Before PROST, O'MALLEY and TARANTO, *Circuit Judges.*

PER CURIAM.

O R D E R

The Secretary of Veterans Affairs responds to the court's order directing the parties to show cause why this appeal should not be dismissed as untimely. Alvin Lincoln has not responded.

The Board of Veterans Appeals denied Mr. Lincoln entitlement to Department of Veterans Affairs disability

compensation for a right-knee condition in June 2012. Mr. Lincoln appealed to the United States Court of Appeals for Veterans Claims (“Veterans Court”), which affirmed the Board’s decision.

On September 27, 2013, the Veterans Court entered its judgment in Mr. Lincoln’s case. Mr. Lincoln’s notice of appeal seeking review by this court was received by the Veterans Court on December 2, 2013, 66 days after the date of judgment.

To be timely, a notice of appeal must be received by the Veterans Court within 60 days of the entry of judgment. 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). Like appeals from district courts, the statutorily prescribed time for filing appeals from the Veterans Court to this court is mandatory and jurisdictional. *See Wagner v. Shinseki*, 733 F.3d 1343, 1348 (Fed. Cir. 2013); *see also Henderson v. Shinseki*, 131 S. Ct. 1197, 1204-05 (2011) (indicating jurisdictional restrictions on the time for taking an appeal under section 7292(a)). Accordingly, even in circumstances in which it would be equitable to do so, this court is without authority to waive the deadline for filing an appeal to this court from the Veterans Court. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007).

Because Lincoln’s appeal was filed past 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 as untimely.
- (2) Each side shall bear its own costs.

LINCOLN v. SHINSEKI

3

FOR THE COURT

/s/ Daniel E. O'Toole

Daniel E. O'Toole

Clerk of Court

s24