

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit
2009-3089

CETRIC D. FLETCHER, SR.,

Petitioner,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

Petition for review of the Merit Systems Protection Board in
SF0353080383-I-1.

ON MOTION

Before GAJARSA, LINN, and PROST, Circuit Judges.

PER CURIAM.

ORDER

Cetric D. Fletcher, Sr. moves for leave to proceed in forma pauperis and for reconsideration of the court's previous rejection of his petition for review.

The Merit Systems Protection Board issued its final order on September 24, 2008. Fletcher received a copy of the Board's order the next day. Fletcher's petition was received by this court on December 9, 2008, 76 days after Fletcher received the Board's final order.

Our review of a Board decision or order is governed by 5 U.S.C. § 7703(b)(1), which provides that "[n]otwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the board." This filing period is "statutory, mandatory, [and]

jurisdictional.” Monzo v. Dep’t of Transportation, 735 F.2d 1335, 1336 (Fed. Cir. 1984);
see also Bowles v. Russell, 551 U.S. 205 (2007) (the timely filing of a notice of appeal
in a civil case is a jurisdictional requirement that cannot be waived).

Because Fletcher’s petition was not received within 60 days of the date he
received the Board’s decision, we must dismiss his petition as untimely.

Accordingly,

IT IS ORDERED THAT:

- (1) Fletcher’s petition is dismissed.
- (2) Fletcher’s motion for leave to proceed in forma pauperis is granted.
- (3) All sides shall bear their own costs.

FOR THE COURT

FEB 6 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: Cetric D. Fletcher, Sr.
Maame A.F. Ewusi-Mensah, Esq.

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ISSUED AS A MANDATE: _____