

NOTE: This order is nonprecedential.

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

MICHELLE BARBARA BUSH,
Petitioner,

v.

FEDERAL TRADE COMMISSION,
Respondent,

AND

JILL E. COLEMAN,
Respondent.

2010-3113

Petition for review of the Merit Systems Protection
Board.

ON MOTION

Before LINN, DYK, and PROST, *Circuit Judges.*

PER CURIAM.

O R D E R

The Federal Trade Commission (FTC) moves to waive
Fed. Cir. R. 27(f) and to dismiss this petition for review as

untimely. Michelle Barbara Bush also submits a response to this court's May 20, 2010 order directing her to show cause why this petition should not be dismissed and requests a hearing.

In March of 2010, Bush filed a complaint in the United States District Court for the District of Columbia, alleging fraud related to a 1996 Merit Systems Protection Board decision. The district court treated the complaint as seeking review of the Board decision and transferred the complaint to this court. In 1996, the statute governing our review of a petition for review of a Board decision required that the petition be received within 30 days after the date the petitioner received notice of the final order or decision of the Board. 5 U.S.C. § 7703(b)(1) (1996).*

The filing period provided by § 7703(b)(1) is "statutory, mandatory, [and] jurisdictional." *Monzo v. Dep't of Transp.*, 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 Bush is attempting to seek review of a 1996 Board decision more than 13 years after it issued, we lack jurisdiction over her petition. *Oja v. Dep't of Army*, 405 F.3d 1349 (Fed. Cir. 2005) (dismissing as untimely a petition that was transferred from district court, when filing date at district court was beyond time to seek review of Board decision by this court). We must therefore grant the FTC's motion and dismiss this petition as untimely.

Accordingly,

IT IS ORDERED THAT:

* In 1998, the statute was amended to allow 60 days to seek review of a Board decision.

- (1) The FTC's motions are granted. The petition is dismissed.
- (2) Bush's motion for a hearing is denied.
- (3) The stay is lifted.
- (4) Each side shall bear its own costs.

FOR THE COURT

OCT 27 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Michelle B. Bush
Patryk J. Drescher, Esq.

s19

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

OCT 27 2010

ISSUED AS MANDATE: OCT 27 2010

JAN HORBALY
CLERK