

NOTE: This order is nonprecedential.

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

ALONZO DAY, JR.,
Claimant-Appellant,

v.

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

2012-7035

Appeal from the United States Court of Appeals for
Veterans Claims in 09-4491, Judge Robert N. Davis.

ON MOTION

Before **RADER**, *Chief Judge*, and **GAJARSA** and **REYNA**,
Circuit Judges.

PER CURIAM.

O R D E R

Alonzo Day, Jr. responds to the court's order directing him to show cause why his appeal should not be dismissed as untimely. The Secretary of Veterans Affairs requests

that this court waive the requirements of Federal Circuit Rule 27(f) and moves to dismiss the appeal as untimely.

The Court of Appeals for Veterans Claims entered judgment in this case on August 16, 2011. Mr. Day filed his notice of appeal on October 24, 2011, 69 days after entry of judgment.

Any appeal of the judgment had to be received by the Court of Appeals for Veterans Claims within 60 days of the date of entry of judgment. 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). The statutory deadline for taking an appeal to this court is jurisdictional and mandatory. *See Bowles v. Russell*, 551 U.S. 205 (2007). As such, this court “has no authority to create equitable exceptions to jurisdictional requirements,” even if such “rigorous rules . . . are thought to be inequitable[.]” *Id.* at 214.

Accordingly,

IT IS ORDERED THAT:

- (1) The requirements of Federal Circuit Rule 27(f) are waived.
- (2) The motion to dismiss is granted.

FOR THE COURT

MAR 22 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Alonzo Day, Jr.
Elizabeth A. Speck, Esq.

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ISSUED AS A MANDATE: MAR 22 2012

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

MAR 22 2012

JAN HORBALY
CLERK