

NOTE: This order is nonprecedential.

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

IRENE D. CAMPBELL,
Petitioner

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent

2022-1255

Petition for review of the Merit Systems Protection Board in No. AT-844E-21-0048-I-1.

Before PROST, REYNA, and CUNNINGHAM, *Circuit Judges*.
PER CURIAM.

ORDER

In response to the court's February 3, 2022 order to show cause, the Office of Personnel Management urges dismissal of this petition for review as untimely. Irene D. Campbell has not responded.

Ms. Campbell filed an appeal at the Merit Systems Protection Board seeking review of the denial of her application for disability retirement. On April 7, 2021, the administrative judge (AJ) issued an initial decision affirming the Office of Personnel Management's decision. That

decision became the final decision of the Board on May 12, 2021, because Ms. Campbell did not seek further review at the Board. This court received Ms. Campbell's petition for review 211 days later, on December 9, 2021.

Section 7703(b)(1)(A) of title 5 of the U.S. Code states that a petition for review from the Board "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). This court has held that section 7703(b)(1)(A)'s deadline is jurisdictional and not subject to equitable tolling. *See Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1016 (Fed. Cir. 2017) (confirming that § 7703(b)(1)(A)'s deadline is jurisdictional). Thus, we may only consider whether the petition for review was timely filed. Ms. Campbell's petition here was received outside of the 60-day filing deadline, and we therefore must dismiss.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

April 5, 2022
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court