

NOTE: This order is nonprecedential.

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

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**SENIA V. EDWARDS,**  
*Petitioner*

v.

**OFFICE OF PERSONNEL MANAGEMENT,**  
*Respondent*

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2022-2245

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Petition for review of the Merit Systems Protection Board in No. CH-844E-17-0332-I-1.

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Before LOURIE, PROST, and WALLACH, *Circuit Judges*.

PER CURIAM.

**O R D E R**

In response to this court's November 28, 2022, order to show cause, the Office of Personnel Management (OPM) urges dismissal of this petition for review as untimely. Senia V. Edwards has not responded.

OPM denied Ms. Edwards' application for disability retirement benefits. Ms. Edwards appealed to the Merit Systems Protection Board, which affirmed OPM's denial in a

final decision dated May 16, 2022.<sup>1</sup> This court received Ms. Edwards' petition on September 14, 2022.<sup>2</sup>

The timely filing of a petition from a Board decision is a jurisdictional requirement “and not subject to equitable tolling.” *See Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1015 (Fed. Cir. 2017). A petition from a final decision “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). Here, Ms. Edwards' petition was received outside of the 60-day filing deadline, including over 60 days after the Board's July 8, 2022, letter with the courtesy copy of the decision. We therefore must dismiss.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.

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<sup>1</sup> On July 7, 2022, the Board was informed that its decision mailed to Ms. Edwards was returned undeliverable. In a letter dated July 8, 2022, the Board informed Ms. Edwards of its efforts to contact her and included a courtesy copy of the May 16, 2022, final decision.

<sup>2</sup> Although Ms. Edwards' filings before this court indicated that she raised a discrimination claim at the Board, OPM responds without contradiction that Ms. Edwards did not raise a claim at the Board that OPM's benefits decision was based on discrimination. *See* ECF No. 10-1 at 6–7.

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(2) Each side shall bear its own costs.

FOR THE COURT

March 27, 2023  
Date

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