

NOTE: This order is nonprecedential.

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

ERIC MALONE,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2024-1091

Appeal from the United States Court of Federal Claims
in No. 1:22-cv-01770-TMD, Judge Thompson M. Dietz.

ON MOTION

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

PER CURIAM.

O R D E R

In response to this court's December 5, 2023 order to show cause, the United States urges dismissal. Eric Malone has not responded to the order, though he has filed other documents in the interim.

The United States Court of Federal Claims entered judgment dismissing Mr. Malone's complaint for lack of

subject matter jurisdiction on July 25, 2023. Mr. Malone's notice of appeal was received by that court on October 10, 2023, 77 days after entry of judgment.

To be timely, a notice of appeal must be received by the Court of Federal Claims within 60 days of the entry of the final judgment. 28 U.S.C. §§ 2107(b), 2522; Fed. R. App. P. 4(a)(1)(B); Fed. Cir. R. 1(a)(1)(C). The statutory deadline is mandatory and jurisdictional, such that we may not excuse a late notice. *Marandola v. United States*, 518 F.3d 913, 914 (Fed. Cir. 2008); *see also Bowles v. Russell*, 551 U.S. 205, 209 (2007); *cf.* Fed. R. App. P. 26(b)(1). Because the notice of appeal was not received within that time, we lack jurisdiction and must dismiss.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) All pending motions are denied.
- (3) The parties shall bear their own costs.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

April 2, 2024
Date