

NOTE: This order is nonprecedential.

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

MILO D. BURROUGHS,
Petitioner,

v.

DEPARTMENT OF THE ARMY,
Respondent.

2011-3187

Petition for review of the Merit Systems Protection
Board in case no. AT3330100828-I-1.

ON MOTION

Before LOURIE, MOORE, and REYNA, *Circuit Judges.*
PER CURIAM.

ORDER

Milo D. Burroughs moves for reconsideration of the
court's previous rejection of his petition for review as
untimely.

On April 27, 2011, the Merit Systems Protection Board dismissed Burroughs' petition for review for lack of jurisdiction. Burroughs received the decision on April 30, 2011. The court received Burroughs' petition for review on July 6, 2011, or 66 days after Burroughs received the Board's final order.

A petition for review must be received by the court within 60 days of receipt of notice of the Board's final order. 5 U.S.C. § 7703(b)(1). To be timely filed, the petition must be received by this court on or before the date that the petition is due. *Pinat v. Office of Personnel Management*, 931 F.2d 1544, 1546 (Fed. Cir. 1991) (petition is filed when received by this court; court dismissed petition received nine days late). Because Burroughs' petition was not timely received by this court, it must be dismissed. *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).

Accordingly,

IT IS ORDERED THAT:

Burroughs' motion for reconsideration is denied and this petition for review is dismissed as untimely filed.

FOR THE COURT

SEP 06 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Milo D. Burroughs
Vincent D. Phillips, Esq.

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

SEP 06 2011

JAN HORBALY
CLERK