

United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NOS. FC-20-90007, FC-20-90008,
AND FC-20-90009

ORDER

Rule 18(d) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings states that “[t]he circuit clerk must refuse to accept a petition that is” not timely “received.” That is the case with this petition. The complainant, an inmate, submits a petition from the February 12, 2020 order dismissing the above-referenced complaints. The petition states that it was executed on March 25, 2020 and bears a postmark of March 30, 2020. The court received the petition on April 6, 2020.

Generally, a petition for review of an order dismissing a judicial misconduct complaint must be received by the circuit executive within 42 days of the date of the order. *See* Rule 18(b) (stating that “[a] petition for review must be filed in the office of the circuit clerk within 42 days after the date of the chief judge’s order”); Rule 3(b) (explaining that “circuit clerk” means the circuit executive of this court). This petition, however, was not received until 54 days after this court dismissed the complaints.

Although the commentary to the Rules suggests that a court can consider a petition timely filed from an inmate if it is deposited in the institution’s internal mail system on or before the last day for filing when the inmate submits (1) a declaration in compliance with 28 U.S.C. § 1746 or a notarized statement setting out the date of deposit

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PETER R. MARKSTEINER
CLERK

and stating that first-class postage is being prepaid or (2) evidence (such as a postmark or date stamp) showing that the paper was so deposited and that postage was prepaid, *see* Rule 18 cmt.; Fed. R. App. P. 25(a)(2)(A)(iii), the complainant here has not made such a submission.

In the absence of such a showing, the only conclusion that the court can draw from the record here is that the petition was not timely filed and must be refused.

Accordingly,

IT IS ORDERED THAT:

The petition is refused as untimely.

FOR THE COURT

April 9, 2020

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court