

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3147

PAMELA D. DINKLER,

Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

Petition for review of the Merit Systems Protection Board in
CH0831070409-I-1.

ON MOTION

Before GAJARSA, FRIEDMAN, and LINN, Circuit Judges.

PER CURIAM.

ORDER

Pamela D. Dinkler moves for leave to proceed in forma pauperis and submits correspondence requesting that the court accept her untimely petition for review. The court considers whether the petition should be dismissed.

On April 30, 2008, the Merit Systems Protection Board issued a final decision in Dinkler v. Office of Pers. Mgmt., No. CH-0831-07-0409-I-1, specifying that its decision was final and that any petition for review must be received by this court within 60 calendar days of receipt of the Board's decision. The Board's records reflect that

Dinkler received the Board's decision on May 9, 2008. The court received Dinkler's petition for review 62 days later, on July 10, 2008.*

A petition for review of a Board decision must be filed within 60 days of receipt of the decision. See 5 U.S.C. § 7703(b)(1). The 60-day filing period is "statutory, mandatory, [and] jurisdictional." Monzo v. Dept. of Transp., 735 F.2d 1335, 1336 (Fed. Cir. 1984); see also Oja v. Department of the Army, 405 F.3d 1349, 1360 (Fed. Cir. 2005) ("[c]ompliance with the filing deadline of 5 U.S.C. § 7703(b)(1) is a prerequisite to our exercise of jurisdiction").

Because Dinkler's petition for review was received by this court two days late, this court must dismiss Dinkler's petition as untimely.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) All pending motions are moot.

FOR THE COURT

MAY - 5 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

cc: Pamela D. Dinkler
Richard P. Schroeder, Esq.

MAY - 5 2009

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**JAN HORBALY
CLERK**

* The petition for review listed the docket number for an earlier petition of Dinkler's and was originally filed under that number. However, upon review of the file, the court determined that Dinkler's July 10, 2008 submission was a new petition for review and docketed it as 2009-3147.