

NOTE: This order is nonprecedential.

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

---

**HENRY E. GOSSAGE,**  
*Petitioner,*

v.

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

---

2009-3197

---

Petition for review of the Merit Systems Protection Board in SE0731010261-I-5.

---

**ON MOTION**

---

Before GAJARSA, SCHALL, AND MOORE, *Circuit Judges.*

PER CURIAM.

**ORDER**

Henry E. Gossage moves for an extension of time to file his brief.

Gossage, proceeding pro se, filed his petition for review on May 22, 2009. On July 17, 2009, the court granted Gossage's motions seeking extensions of time to file his brief, indicating that the brief was due on Septem-

ber 15, 2009 and that no further extensions should be anticipated. Counsel for Gossage entered an appearance on July 28, 2009. Counsel for Gossage later filed a certificate of interest and docketing statement but did not submit a brief within the deadline set by the court's order. Thus, the court dismissed the case on October 15, 2009 for failure to file a brief.

On August 4, 2010, nearly ten months after the case was dismissed, counsel filed the present motion seeking an extension of time to file the opening brief. The motion acknowledges that the brief is "extremely late" but provides no explanation for the delay. Counsel states simply that "in the interest of justice, where no prejudice would be caused to the Defendants/Appellees, Plaintiff respectfully asserts that his appeal should be decided on its merits."

Gossage's motion does not seek reinstatement of the case. Thus, even if the court were to grant the relief Gossage seeks, the case would not proceed. In addition, the motion does not comply with Fed. Cir. R. 26(b)(1) in that no affidavit is included and does not comply with Fed. Cir. R. 27 because no statement of consent or opposition is included.

To the extent that Gossage seeks reinstatement of his petition, the motion is untimely. *See* Fed. Cir. R. 45(a) (if appeal is dismissed by clerk, reconsideration motion must be filed within 14 days). Furthermore, Gossage has provided no explanation for the untimeliness in filing his brief or the motion seeking an extension of time. Under these circumstances, reconsideration is not warranted.

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

NOV 15 2010

Date

/s/ Jan Horbaly  
Jan Horbaly  
Clerk

cc: Aaron K. Owada, Esq.  
Lauren S. Moore, Esq.

s17

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

NOV 15 2010

JAN HORBALY  
CLERK