

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-5088

ALAN TOORAEN,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims in 08-CV-826,
Chief Judge Emily C. Hewitt.

ON MOTION

Before MAYER, CLEVINGER, and RADER, Circuit Judges.

PER CURIAM.

ORDER

The United States moves to dismiss Alan Tooraen's appeal from the March 27, 2009 judgment of the United States Court of Federal Claims as untimely.

The Court of Federal Claims issued its decision dismissing Tooraen's complaint with prejudice on March 27, 2009 and entered judgment the same day. Tooraen's notice of appeal was received by the court on May 27, 2009, 61 days after the date of entry of judgment.

Pursuant to 28 U.S.C. § 2522 and Rule 4(b) of the Federal Rules of Appellate Procedure, a notice of appeal from an order or decision of the Court of Federal Claims must be filed "within 60 days after the judgment or appealed from is entered." As the Supreme Court has stated when the time for filing a notice of appeal is limited by

statute, such as in this case, those limits are mandatory and jurisdictional. 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).

Because Tooraen's appeal was not received within 60 days of the date the Court of Federal Claims entered judgment, we must dismiss his appeal as untimely.

Accordingly,

IT IS ORDERED THAT:

- (1) Tooraen's appeal is dismissed.
- (2) All sides shall bear their own costs.

FOR THE COURT

JUL 30 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Alan Tooraen
Steven M. Mager, Esq.

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

JUL 30 2009

**JAN HORBALY
CLERK**