

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-7042

DONALD E. ODELL,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims in
06-2341, Judge Bruce E. Kasold.

Before MAYER, SCHALL, and MOORE, Circuit Judges.

PER CURIAM.

ORDER

Donald E. Odell responds to the court's February 24, 2009 order directing him to show cause why this appeal should not be dismissed for lack of jurisdiction.

On July 15, 2008, the United States Court of Appeals for Veterans Claims entered judgment in Odell's case. The court received Odell's notice of appeal on September 16, 2008, or 63 days after the entry of judgment.

To be timely, a notice of appeal must be received by the Court of Appeals for Veterans Claims within 60 days of the entry of judgment, or by Monday, September 15, 2008. See 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). Odell states, without explanation, that he believed the time to submit his notice of appeal had "changed." The timely filing of his notice of appeal in a civil case is a jurisdictional requirement that cannot be waived. Bowles v. Russell, 551 U.S. 205 (2007). Because

the appeal was not received within the statutory deadline for filing, we must dismiss this appeal as untimely.

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT

MAR 27 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

MAR 27 2009

JR. HORBALY
CLERK

cc: Donald E. Odell
Antonia R. Soares, Esq.

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