

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-3031

RAYMOND L. GOODWIN,

Petitioner,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Petition for review of the Merit Systems Protection Board
in CH0432090229-I-1.

ON MOTION

Before MICHEL, Chief Judge, SCHALL and LINN, Circuit Judges.

PER CURIAM

ORDER

The Department of Agriculture moves to dismiss Raymond L. Goodwin's petition for review as untimely. Goodwin opposes. The United States replies.

The Merit Systems Protection Board issued a final decision on August 21, 2009 and served Goodwin via electronic mail on the same day. The Board informed Goodwin 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. Pursuant to the Board's regulations, "Board documents served electronically on registered e-filers are deemed received on the date of electronic submission," i.e., August 21, 2009, in this case. The court received Goodwin's petition for review on November 4, 2009, 75 days after Goodwin received the Board's decision.

A petition for review must be received by the court within 60 days of receipt of the Board's final order. 5 U.S.C. § 7703(b)(1). To be timely filed, the petition must be received by this court within 60 days of the date of receipt of the Board's final order by Goodwin. Monzo v. Dep't of Transp., Fed. Aviation Admin., 735 F.2d 1335, 1336 (Fed. Cir. 1984). Because Goodwin's petition was not timely received by this court, it must be dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

DEC 16 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Raymond L. Goodwin
Arlene Pianko Groner, Esq.

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ISSUED AS A MANDATE: DEC 16 2009

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

DEC 16 2009

JAN HORBALY
CLERK