

NOTE: This order is nonprecedential.

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

CHRISTOPHER JOHNSON,
Petitioner,

v.

DEPARTMENT OF VETERANS AFFAIRS,
Respondent.

2010-3164

Petition for review of the Merit Systems Protection Board in case no. CH0752090100-I-1.

Before LOURIE, MAYER, and DYK, *Circuit Judges.*

PER CURIAM.

O R D E R

Christopher Johnson responds to the court's order directing him to indicate when he received the final decision of the Merit Systems Protection Board.

Johnson filed an appeal with the Board challenging his termination as a pharmacy technician. On February 3, 2009 the administrative judge dismissed the case for lack of jurisdiction, finding that Johnson had served in an excepted position for less than two years and was not preference eligible. Johnson petitioned the Board for

review. The Board denied his petition for review on June 8, 2009. The Board's certified index reflects that the final decision that was mailed to Johnson was returned as undeliverable on July 27, 2009. This court received Johnson's petition for review on July 19, 2010, nearly one year after the Board's decision. We directed the Johnson indicate when he received notice of the Board's decision so that this court could determine whether his petition was timely filed.

A petition for review of a Board decision must be filed within 60 days of when the petitioner received notice of the decision. See 5 U.S.C. § 7703(b)(1). In his response to the court's order, Johnson does not indicate when he received notice of the Board's decision. "A party seeking the exercise of jurisdiction in its favor has the burden of establishing that such jurisdiction exists." *Rocovich v. United States*, 933 F.2d 991, 993 (Fed. Cir. 1991). In this case, Johnson has not demonstrated that his petition is timely and thus has not shown that the court has jurisdiction. Thus, the petition is dismissed.

Accordingly,

IT IS ORDERED THAT:

The petition for review is dismissed.

FOR THE COURT

DEC 08 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Christopher Johnson
Michael D. Snyder, Esq.

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

DEC 08 2010

JAN HORBALY
CLERK