

NOTE: This order is nonprecedential.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.

ON MOTION

ORDER

Christopher Johnson moves for leave to proceed in forma pauperis. The court treats Johnson's correspondence concerning the timeliness of his petition for review as a motion for reconsideration of the court's previous rejection of his petition for review as untimely. Upon review of the submission, the court considers whether Johnson should be directed to respond concerning 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.

A petition for review of a Board decision must be filed within 60 days of receipt of the decision. *See* 5 U.S.C. § 7703(b)(1). In this case, it is not clear when Johnson received the Board's final decision. Thus, the court directs Johnson to respond when he received the Board's final decision.

Accordingly,

IT IS ORDERED THAT:

(1) Johnson is directed to respond stating on what date he received the Board's final decision. Johnson's response to this order is due within 21 days of the date of filing of this order.

(2) Johnson's motion for leave to proceed in forma pauperis is granted.

FOR THE COURT

SEP 02 2010

/s/ Jan Horbaly

Date

Jan Horbaly
Clerk

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

SEP 02 2010

JAN HORBALY
CLERK

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cc: Christopher Johnson
Michael D. Snyder, Esq.

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