

NOTE: This order is nonprecedential.

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

DAWN SHIPLEY-JOHNSON,
Petitioner,

v.

UNITED STATES POSTAL SERVICE,
Respondent.

2010-3172

Petition for review of the Merit Systems Protection Board in case no. NY3443100129-I-1.

ON MOTION

Before GAJARSA, SCHALL, and MOORE, *Circuit Judges.*
PER CURIAM.

ORDER

The United States Postal Services moves to dismiss Dawn Shipley-Johnson's petition for review as untimely. Shipley-Johnson opposes. The Postal Service moves for an extension of time to file a reply and replies. Shipley-Johnson submits a motion for reconsideration of the court's initial rejection of her petition for review.

The Merit Systems Protection Board dismissed Shipley-Johnson's appeal and informed Shipley-Johnson that, if she did not petition the full Board for review of the Administrative Judge's decision, the Board's decision would become final on May 26, 2010. The Board informed Shipley-Johnson that any petition seeking review by this court must be received by this court within 60 calendar days of the date that the Board's decision became final. Shipley-Johnson did not petition the full Board for review. Her petition seeking review by this court was received on July 27, 2010, or 62 days after the Board's decision became final.

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). A petition for review must be received by this court within the deadline and not merely mailed before the deadline. Fed. R. App. P. 25(a)(2)(A). The 60-day filing period is "statutory, mandatory, [and] jurisdictional." *Monzo v. Dep't of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984); *see also Oja v. Dep't of the Army*, 405 F.3d 1349, 1360 (Fed. Cir. 2005) ("[c]ompliance with the filing deadline of 5 U.S.C. § 7703(b)(1) is a prerequisite to our exercise of jurisdiction"). Because Shipley-Johnson's petition was not timely received by this court, it must be dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for an extension of time is granted.
- (2) The motion to dismiss is granted.
- (3) All other pending motions are denied as moot.
- (4) Each side shall bear its own costs.

FOR THE COURT

NOV 15 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Dawn Shipley-Johnson
Armando A. Rodriguez-Feo, Esq.

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Issued As A Mandate: _____

NOV 15 2010

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

NOV 15 2010

JAN HORBALY
CLERK