

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-7037

DONALD L. JONES,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims
In case no. 09-107, Judge Bruce E. Kasold.

ORDER

Upon review of this recently docketed appeal, the court considers whether Donald L. Jones should be directed to show cause why his appeal should not be dismissed as untimely filed.

The Court of Appeals for Veterans Claims entered judgment in this case on September 29, 2009. The docket sheet of the Court of Appeals for Veterans Claims indicates that that court received Lytle's notice of appeal on December 17, 2009, or 79 days after entry of judgment.

Any appeal of the judgment had to be received by the Court of Appeals for Veterans Claims within 60 days of the date of entry of judgment. 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). If the notice of appeal was untimely filed, we do not have jurisdiction and this appeal must be dismissed. See Bowles v. Russell, 551 U.S. ___, 127 S.Ct. 2360 (2007) (the timely filing of a notice of appeal in a civil case

is a jurisdictional requirement); Sofarelli Assoc., Inc. v. United States, 716 F.2d 1395 (Fed. Cir. 1983).

Accordingly,

IT IS ORDERED THAT:

(1) Jones is directed to show cause, within 21 days of the date of filing of this order, why his appeal should not be dismissed as untimely filed.

(2) The briefing schedule is stayed.

FOR THE COURT

FEB 04 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Donald Jones, Esq.
Vincent D. Phillips, Esq.

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

FEB 04 2010

JAN HORBALY
CLERK