

NOTE: This order is nonprecedential.

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

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**KARL GIBSON,**  
*Petitioner,*

v.

**DEPARTMENT OF THE ARMY,**  
*Respondent.*

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2011-3153

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Petition for review of an arbitrator's decision in FMSC  
no. 101028-00325-8 by Geoffrey L. Pratte.

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**ON MOTION**

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Before RADER, *Chief Judge*, DYK and O'MALLEY, *Circuit  
Judges.*

PER CURIAM.

**ORDER**

The Department of the Army moves to waive the requirements of Fed. Cir. R. 27(f) and to dismiss Karl Gibson's petition for review as untimely. Gibson responds. The Army replies.

On October 26, 2010, an arbitrator dismissed Gibson's grievance. Gibson admits that he received the arbitrator's decision by February 10, 2011. Gibson's petition for review was received by the court on June 13, 2011, 123 days later.

A petition for review of an arbitrator's decision must be filed within 60 days of receipt of notice of the decision. 5 U.S.C. §§ 7121(f), 7703(b)(1). The 60 day filing period is "statutory, mandatory, [and] jurisdictional." See *Monzo v. Dept. of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984); see also *Oja v. Dept. 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 this petition was not timely received by this court, it must be dismissed. *Bowles v. Russell*, 551 U.S. 205 (2007) (the timely filing of a notice of appeal in a civil case is a jurisdictional requirement that cannot be waived).

Accordingly,

IT IS ORDERED THAT:

- (1) The Army's motions are granted. Gibson's petition is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

NOV 14 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Karl Gibson  
Ellen M. Lynch, Esq.

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Issued As A Mandate: NOV 14 2011

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

NOV 14 2011

**JAN HORBALY**  
**CLERK**