

NOTE: This order is nonprecedential.

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

AVELARDO GARCIA,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2011-7023

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 10-1449, Judge Kenneth B.
Kramer.

ORDER

Upon review of this recently docketed appeal, the court considers whether Avelardo Garcia 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 July 29, 2010. The docket sheet of the Court of Appeals for Veterans Claims indicates that that court received Garcia's notice of appeal on October 15, 2010, or 78 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 Sofarelli Assoc., Inc. v. United States*, 716 F.2d 1395 (Fed. Cir. 1983).

Accordingly,

IT IS ORDERED THAT:

(1) Garcia 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

NOV 23 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Avelardo Garcia
Jeanne E. Davidson, Esq.

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

NOV 23 2010

JAN HORBALY
CLERK