

NOTE: This order is nonprecedential.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.

Before RADER, *Chief Judge*, NEWMAN, and BRYSON, *Cir-
cuit Judges*.

PER CURIAM.

O R D E R

Avelardo Garcia responds to the court's order direct-
ing him to show cause why his appeal should not be
dismissed as untimely.

The Court of Appeals for Veterans Claims entered
judgment in this case on July 29, 2010. The court re-

ceived Garcia's notice of appeal on October 15, 2010, or 78 days after entry of judgment.

An appeal from the Court of Appeals for Veterans Claims must be received 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). This filing period is statutory, mandatory, and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205 (2007). Garcia's appeal was not received by the court within the statutory period. Thus, we must dismiss his appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs

FOR THE COURT

APR 05 2011

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Avelardo Garcia
Claudia Burke, Esq.

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

APR 05 2011

JAN HORBALY
CLERK