

NOTE: This order is nonprecedential.

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

DAMIAN L. BROWN,
Petitioner,

v.

UNITED STATES POSTAL SERVICE,
Respondent.

2012-3002

Petition for review of the Merit Systems Protection Board in case no. CH0752080818-I-2.

ON MOTION

Before LOURIE, PROST, and MOORE, *Circuit Judges.*

PER CURIAM.

ORDER

Damian L. Brown moves for reconsideration of the court's previous rejection of his petition for review.

The Merit Systems Protection Board issued its final order on June 16, 2011. Mr. Brown received the order on June 19, 2011. Mr. Brown submitted a "petition for review" with this court on August 11, 2011, via facsimile.

Per Federal Circuit Rule 25, a petition for review may not be filed via facsimile. Accordingly, no appeal was docketed. On September 9, 2011, more than 60 days after the date he received the Board's final decision, Mr. Brown filed his petition for review with the court via United States mail.

Our review of a Board decision or order is governed by 5 U.S.C. § 7703(b)(1), which provides that "[n]otwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the board." This filing period is "statutory, mandatory, [and] jurisdictional." *Monzo v. Dep't of Transportation*, 735 F.2d 1335, 1336 (Fed. Cir. 1984); *see also 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).

Because Mr. Brown's petition was not received within 60 days of the date he received the Board's decision, we must dismiss his petition as untimely.

Accordingly,

IT IS ORDERED THAT:

1) Mr. Brown's motion for reconsideration is denied, and his petition is dismissed.

(2) All sides shall bear their own costs.

FOR THE COURT

FEB 06 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

FEB 06 2012

JAN HORBALY
CLERK

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cc: Damian L. Brown
Robert C. Bigler, Esq.

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