

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

RAKHMATULLA ASATOV,
Petitioner,

v.

DEPARTMENT OF THE ARMY,
Respondent.

2013-3039

Petition for review of the Merit Systems Protection Board in case no. PH3330120309-I-1.

ON MOTION

O R D E R

Rakhmatulla Asatov moves for leave to proceed in forma pauperis.

On August 2, 2012, the Merit Systems Protection Board (“Board”) issued an initial decision denying Asatov’s request for corrective action. On September 6, 2012, the initial decision became the final decision of the Board. The court received Asatov’s petition for review on November 6, 2012, or 61 days after the Board’s decision became final.

A petition for review of a Board decision must be filed within 60 days of receipt of the decision. *See* 5 U.S.C. § 7703(b)(1). The 60-day filing period is “statutory, mandatory, [and] jurisdictional.” *Monzo v. Dep't of Transp.*, 735 F.2d 1335, 1336 (Fed.Cir.1984); *see also Oja v. Dep't 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”).

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion to proceed in forma pauperis is granted.

(2) Asatov is directed to show cause within 30 days of the date of this order why his appeal should not be dismissed as untimely. The Department of the Army may also respond within that time.

(3) The briefing schedule is stayed.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk