

NOTE: Pursuant to Fed. Cir. R. 47.6, this disposition is not citable as precedent. It is a public record.

United States Court of Appeals for the Federal Circuit

04-3206

NORMA STEPHENS,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

DECIDED: April 13, 2005

Before MAYER, Circuit Judge, FRIEDMAN, Senior Circuit Judge, and DYK, Circuit Judge.

PER CURIAM.

Norma Stephens (“Stephens”) appeals the decision of the Merit Systems Protection Board, which dismissed her petition for review as untimely. Stephens v. Dep’t of Health & Human Serv., SF0752010547-I-3 (MSPB Mar. 11, 2004). We affirm.

An administrative judge affirmed Stephens’ removal in an initial decision that, if not appealed to the full board, would have become the final decision of the board on April 3, 2003. Stephens requested and received four extensions of this filing deadline. On May 19, 2003, the new filing deadline, Stephens requested a fifth extension. The

board refused and Stephens' petition was deemed untimely. Pursuant to 5 U.S.C. § 7701(e)(1), Stephens requested that the board waive the filing deadline. In support of her request, she claimed that several family emergencies, as well as the complexity of the charges against her, prevented her from timely filing. In response, the board held that Stephens' family difficulties, while burdensome, did not justify waiving the deadline. The board also noted that Stephens should have addressed the agency's charges against her in the initial appeal, not in the petition seeking review before the full board. We cannot say that the board abused its discretion, or that its decision was otherwise arbitrary or not in accordance with law. See Phillips v. United States Postal Serv., 695 F.2d 1389, 1390 (Fed. Cir. 1982).