

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3141

JENNIEVA RANDALL,

Petitioner,

v.

DEPARTMENT OF JUSTICE,

Respondent.

Petition for review of the Merit Systems Protection Board
in consolidated case nos. SF3443060187-B-3 and SF0752070497-I-3.

ON MOTION

Before GAJARSA, FRIEDMAN, and LINN, Circuit Judges.

PER CURIAM.

ORDER

The court treats Jennieva Randall's letter, received by the court on March 24, 2009, as a motion for reconsideration of the court's previous rejection of her petition for review as untimely.

Randall filed actions at the Merit Systems Protection Board, alleging violations of the Uniformed Services Employment and Reemployment Rights Act. The administrative judge denied corrective action and dismissed a second case. The Board denied Randall's petition for review of the administrative judge's decision, and Randall received the Board's final order denying review on January 11, 2009.

The court initially received Randall's petition for review on March 13, 2009, or 62 days after Randall's receipt of the Board's final order.* A petition for review must be received by the court within 60 days of receipt of the Board's final order. 5 U.S.C. § 7703(b)(1). To be timely filed, the petition must be received by this court on or before the date that the petition is due. Pinat v. Office of Personnel Management, 931 F.2d 1544, 1546 (Fed. Cir. 1991) (petition is filed when received by this court; court dismissed petition received nine days late). Because Randall's petition was not timely received by this court, it must be dismissed. 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).

Accordingly,

IT IS ORDERED THAT:

- (1) Randall's motion is denied and this petition for review is dismissed as untimely filed.
- (2) Each side shall bear its own costs.

FOR THE COURT

MAY - 5 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

attachment: copy of petition for review

cc: Jennieva Randall
Jeanne E. Davidson, Esq.
s8

MAY - 5 2009

**JAN HORBALY
CLERK**

* The court's March 13, 2009 letter previously sent to Randall incorrectly stated that the petition for review had been received by the court on March 9, 2009. A copy of the date-stamped petition for review is attached, showing that the court actually received the petition on March 13, 2009, the date of the court's letter.