

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit
2009-3162

EARTHA P. JOHNSON,

Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

Petition for review of the Merit Systems Protection Board in
DC844E080501-I-1.

ON MOTION

Before NEWMAN, RADER, and SCHALL, Circuit Judges.

PER CURIAM.

ORDER

Eartha P. Johnson moves for reconsideration of the court's previous rejection of her petition for review.

The Merit Systems Protection Board issued its final order on November 24, 2008. Johnson received a copy of the Board's order on November 29, 2008. Johnson's petition was received by this court on April 10, 2009, more than four months after Johnson received the Board's final order.

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 Johnson’s petition was not received within 60 days of the date she
received the Board’s decision, we must dismiss her petition as untimely.

Accordingly,

IT IS ORDERED THAT:

- (1) Johnson’s petition is dismissed.
- (2) All sides shall bear their own costs.

FOR THE COURT

JUN -3 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

cc: Eartha P. Johnson
Richard P. Schroeder, Esq.

JUN 03 2009

JAN HORBALY
CLERK

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