

NOTE: This order is nonprecedential.

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

CHRISTOPHER R. CHIN-YOUNG,
Petitioner

v.

DEPARTMENT OF THE ARMY,
Respondent

2023-1587

Petition for review of the Merit Systems Protection Board in No. DC-0752-11-0394-C-3.

Before PROST, REYNA, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

In response to the court's order to show cause, Christopher R. Chin-Young urges the court not to dismiss, contends that the Department of the Army is not the proper respondent, and requests consolidation with two of his other pending appeals. The Department of the Army responds in favor of dismissal of this petition as untimely.

After unsuccessfully challenging the Merit Systems Protection Board's September 2016 final decision in the regional circuit, *see Chin-Young v. United States*, 816 F.

App'x 857 (4th Cir. 2020) (affirming dismissal), Mr. Chin-Young filed this petition in March 2023 seeking review of that decision.

Under 5 U.S.C. § 7703(b)(1)(A), a petition must be filed “within 60 days after the Board issues notice of the final . . . decision,” and this deadline is mandatory and jurisdictional, *Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1016 (Fed. Cir. 2017). Here, over six years have passed since the Board’s final decision. Our precedent further requires that we reject Mr. Chin-Young’s arguments for equitable tolling. *Id.* To the extent Mr. Chin-Young seeks review of the district court’s or the United States Court of Appeals for the Fourth Circuit’s decision, we similarly lack jurisdiction. *See* 28 U.S.C. § 1295(a). Because we lack jurisdiction, Mr. Chin-Young’s arguments as to the proper respondent and consolidation are moot.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) Each side shall bear its own costs.
- (3) Any pending motions are denied as moot.

FOR THE COURT

June 8, 2023
Date

/s/ Jarrett B. Perlow
Jarrett B. Perlow
Acting Clerk of Court