

NOTE: This order is nonprecedential.

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

SANDRA SUTTON,
Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent.

2010-3147

Petition for review of the Merit Systems Protection Board in case no. CH844E090813-I-1.

ON MOTION

O R D E R

The court treats Sandra Sutton's correspondence concerning the timeliness of her petition for review as a motion for reconsideration of the court's previous rejection of her petition for review as untimely. Sutton also moves (1) for leave to proceed in forma pauperis, (2) for an extension of time to file her brief, and (3) for appointment of counsel.

The court initially rejected Sutton's petition because it appeared to be untimely. However, upon further review,

the court determines that Sutton received the decision of the Merit Systems Protection Board on May 12, 2010 and this court received Sutton's petition on July 12, 2010. Thus, Sutton's petition is timely.* See 5 U.S.C. § 7703(b)(1).

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for reconsideration is granted.
- (2) Sutton's motion for leave to proceed in forma pauperis is granted.
- (3) Sutton's motion for an extension of time to file her brief is granted. Sutton's brief is due within 30 days of the date of filing of this order.
- (4) Sutton's motion for appointment of counsel is denied.

FOR THE COURT

SEP 21 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Sandra Sutton
Sara B. Rearden, Esq.
s17

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

SEP 21 2010

JAN HORBALY
CLERK

* Pursuant to 5 U.S.C. § 7703(b)(1), a petition for review of a Board decision must be filed within 60 days of receipt of the decision. The court received Sutton's petition 61 days after she received the Board's decision. However, the 60th day after Sutton's receipt of the Board's decision was July 11, a Sunday. Thus, pursuant to Fed. R. App. P. 26(a)(1)(C), Sutton's petition was due on July 12, the day she filed the petition.