

NOTE: This order is nonprecedential.

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

FLORA S. LEYGA,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2012-7166

Appeal from the United States Court of Appeals for
Veterans Claims in 10-3290, Judge Donald L. Ivers.

Before NEWMAN, PROST, and WALLACH, *Circuit Judges.*
PER CURIAM.

O R D E R

Upon review of the parties' responses to the court's
September 25, 2012 order, the court determines whether
this appeal should be dismissed for lack of jurisdiction

On May 4, 2012, the United States Court of Appeals
for Veterans Claims entered judgment in Flora Leyga's
case. The court received Leyga's notice of appeal on
August 13, 2012, 101 days after the date of judgment.

FLORA LEYGA v. SHINSEKI

2

To be timely, a notice of appeal must be received by the Court of Appeals for Veterans Claims within 60 days of the entry of judgment. *See* 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). The statutory deadline for taking an appeal to this court is jurisdictional, mandatory, and cannot be waived. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007).); *see also Henderson v. Shinseki*, 131 S. Ct. 1197, 1204-05 (2011) (the language of Section 7292(a) "clearly signals an intent" to impose the same jurisdictional restrictions on an appeal from the Veterans Court to the Federal Circuit as imposed on appeals from a district court to a court of appeals). Because Leyga's appeal as to the underlying judgment was filed outside of the statutory deadline for taking an appeal to this court, we must dismiss the appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

s26

Issued As A Mandate: DEC 26 2012