

NOTE: This order is nonprecedential.

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

TREVOR L. DUNBAR,
Petitioner,

v.

UNITED STATES POSTAL SERVICE,
Respondent.

2013-3035

Petition for review of the Merit Systems Protection Board in case no. SF0752090788-B-1.

ON MOTION

Before NEWMAN, LOURIE, and REYNA, *Circuit Judges.*

PER CURIAM.

ORDER

The United States Postal Service moves for dismissal of the appeal as untimely.

The Merit Systems Protection Board issued its final order on May 24, 2011, and the order was subsequently

TREVOR DUNBAR V. USPS

2

sent to Mr. Dunbar. The order was returned to the MSPB, and Mr. Dunbar requested that another copy be sent to him. The MSPB sent a second copy of the final decision to Mr. Dunbar on July 19, 2012, via certified mail, which indicates receipt on July 24, 2012. On October 9, 2012, more than 60 days after he received the copy of the final order, Mr. Dunbar filed his petition for review with the court.

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 Mr. Dunbar’s petition was not received within 60 days of the date he received the Board's decision, we must dismiss his petition as untimely.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) All pending motions are moot.
- (3) Each side shall bear its own costs.

3

TREVOR DUNBAR V. USPS

FOR THE COURT

/s/ Jan Horbaly

Jan Horbaly

Clerk

Issued As A Mandate: March 4, 2013

s24