

NOTE: This order is nonprecedential.

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

JOHN G. BAUMGARTEN,
Petitioner,

v.

DEPARTMENT OF THE ARMY,
Respondent.

2014-3139

Petition for review of the Merit Systems Protection Board in No. CH-315I-12-0176-I-1.

PER CURIAM.

ORDER

Upon review of this recently docketed petition for review, it appears that John G. Baumgarten's petition was not timely filed.

On February 28, 2014, the Merit Systems Protection Board dismissed as untimely (without a showing of good cause) Baumgarten's petition for review of an initial decision that had dismissed his appeal of his reduction in grade/pay. The court received his petition for review on May 12, 2014, which was 73 days after the Board issued its final order.

The time for filing a petition for review from a Board decision or order is governed by 5 U.S.C. § 7703(b)(1), which provides in relevant part that “[n]otwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.” 5 U.S.C. § 7703(b)(1)(A). This filing period is “statutory, mandatory, [and] jurisdictional.” *Monzo v. Dep’t of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984).

Accordingly,

IT IS ORDERED THAT:

- (1) Baumgarten is directed to show cause, within 45 days of the date of filing of this order, why this petition should not be dismissed as untimely. The Department of the Army may also respond within that time.
- (2) The briefing schedule is stayed.

FOR THE COURT

/s/ Daniel E. O’Toole
Daniel E. O’Toole
Clerk of Court