

NOTE: This order is nonprecedential.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.

Before O'MALLEY, WALLACH, and HUGHES, *Circuit Judges.*
PER CURIAM.

ORDER

John G. Baumgarten responds to this court's order directing him to show cause why this petition should not be dismissed as untimely. The Department of the Army also responds.

On February 28, 2014, the Merit Systems Protection Board dismissed the underlying petition for review as untimely. This 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 “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). In order to be timely, a petition for review must be received by the court within the filing deadline. *Pinat v. Office of Pers. Mgmt.*, 931 F.2d 1544, 1546 (Fed. Cir. 1991) (petition is filed when received by this court); *see also* Fed. R. App. P. 25(a)(2)(A). This filing period is “statutory, mandatory, [and] jurisdictional.” *Monzo v. Dep’t of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984).

Because Baumgarten’s petition concerning the Board’s final order was received after the statutory deadline for filing a petition, we must dismiss the petition.

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT

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