

NOTE: This order is nonprecedential.

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

MELVIN LETT,
Claimant-Appellant,

v.

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

2012-7159

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 10-3178, Judge Lawrence B.
Hagel.

ON MOTION

Before LINN, DYK, and WALLACH, *Circuit Judges.*
PER CURIAM.

O R D E R

The Secretary of Veterans Affairs moves to dismiss
this appeal as untimely.

On May 7, 2012, the United States Court of Appeals
for Veterans Claims (Veterans Court) entered judgment

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in Lett's case. According to the docket of the Veterans Court, the court received Lett's notice of appeal on July 16, 2012, 70 days after the date of judgment.

To be timely, a notice of appeal must be filed with 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 and thus mandatory. *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); *see also Bowles v. Russell*, 551 U.S. 205 (2007). Because Lett'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 motion is granted.
- (2) The appeal is dismissed.
- (3) Each side shall bear its own costs.

FOR THE COURT

OCT 16 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Melvin Lett
Jeremiah M. Luongo, Esq.

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Issued As A Mandate: OCT 16 2012