

NOTE: This order is nonprecedential.

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

JOHN EDWARD PENN, JR.,
Petitioner,

v.

DEPARTMENT OF DEFENSE,
Respondent.

2014-3023

Petition for review of the Merit Systems Protection Board in No. AT3330120859-I-1.

PER CURIAM.

ORDER

Upon review of this recently docketed appeal, it appears that John Edward Penn, Jr.'s appeal was not timely filed.

On July 24, 2013, the Merit Systems Protection Board (Board) issued a final order dismissing Penn's case for lack of jurisdiction. The court received his notice of appeal on September 24, 2013; 61 days after the Board issued its decision.

Our review of 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); 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).

Accordingly,

IT IS ORDERED THAT:

(1) Penn is directed to show cause, within 30 days of the date of filing of this order why this appeal should not be dismissed. The Department of Defense 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