

NOTE: This order is nonprecedential.

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

REBECCA M. CROSS,
Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent.

2014-3119

Petition for review of the Merit Systems Protection Board in No. CH-0831-12-0766-I-2.

Before REYNA, BRYSON, and TARANTO, *Circuit Judges.*

PER CURIAM.

ORDER

Rebecca M. Cross responds to this court's order directing her to show cause why this petition should not be dismissed as untimely. The Office of Personnel Management (OPM) also responds. Cross separately moves to proceed in forma pauperis.

On February 19, 2014, the Merit Systems Protection Board denied Cross's petition for review of an initial decision that determined that OPM properly calculated her creditable service toward a retirement annuity. The

court received her petition for review on Tuesday, April 22, 2014, which was 61 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). 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); Fed. R. App. P. 25(a)(2)(A) (“filing is not timely unless the clerk receives the papers within the time fixed for filing”). This filing period is “statutory, mandatory, [and] jurisdictional.” *Monzo v. Dep’t of Transp.*, 735 F.2d 1335, 1336 (Fed. Cir. 1984).

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

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to proceed in forma pauperis is granted.
- (2) The petition is dismissed.
- (3) Each side shall bear its own costs.

FOR THE COURT

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

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