

NOTE: This order is nonprecedential.

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

MARK A. TROUTT,
Claimant-Appellant,

v.

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

2014-7001

Appeal from the United States Court of Appeals for
Veterans Claims in No. 13-441, Judge William Greenberg.

Before MOORE, LINN and O'MALLEY, *Circuit Judges.*

PER CURIAM.

O R D E R

Mark A. Troutt appeals from a decision of the United States Court of Appeals for Veterans Claims ("Veterans Court") that dismissed his appeal because the Board of Veterans' Appeals decision was not final. We consider whether his appeal to this court must be dismissed for lack of jurisdiction.

On July 15, 2013, the Veterans Court entered its judgment in Troutt's case. Troutt's notice of appeal was received on September 27, 2013, 74 days after the date of Veterans Court judgment. On October 30, 2013, we directed the parties to show cause why this appeal should not be dismissed as untimely. The Secretary responded and argued the appeal must be dismissed. Troutt did not respond.

To be timely, a notice of appeal must be received by the Veterans Court within 60 days of the entry of judgment. 38 U.S.C. § 7292(a); 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1). Like appeals from district courts, the statutorily prescribed time for filing appeals from the Veterans Court to this court is mandatory and jurisdictional. *See Wagner v. Shinseki*, 733 F.3d 1343, 1348 (Fed. Cir. 2013); *see also Henderson v. Shinseki*, 131 S. Ct. 1197, 1204-05 (2011) (indicating jurisdictional restrictions on the time for taking an appeal under section 7292(a)). Accordingly, this court is without authority to waive the deadline for filing an appeal to this court from the Veterans Court. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007).

Because Troutt's appeal as to the underlying judgment was filed outside of the statutory deadline for taking an appeal to this court, we must dismiss this appeal.

Accordingly,

IT IS ORDERED THAT:

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

TROUTT v. SHINSEKI

3

FOR THE COURT

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

s26