

NOTE: This order is nonprecedential.

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

SUSANA B. JAVILLONAR,
Claimant-Appellant,

v.

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

2014-7062

Appeal from the United States Court of Appeals for
Veterans Claims in No. 10-4030, Judge Robert N. Davis.

PER CURIAM.

O R D E R

It appears that this recently docketed appeal may not have been timely filed. This case originally arose out of a claim filed by Susana B. Javillonar seeking benefits from the Department of Veterans Affairs based on the service of her deceased husband, Felipe J. Javillonar. While Mrs. Javillonar's appeal was pending, the United States Court of Appeals for Veterans Claims ("Veterans Court") was informed that Mrs. Javillonar had also died.

The Javillonars' son, Artemio B. Javillonar, subsequently filed a motion to substitute. The Veterans Court, however, denied that motion and entered judgment setting aside the underlying decision and dismissing the appeal on November 22, 2013.

According to the Veterans Court, Artemio's notice of appeal was originally received on December 24, 2013 by the Department of Veterans Affairs, Office of General Counsel. But, the Veterans Court did not actually receive the notice until February 7, 2014; 77 days after judgment. To be timely, a notice of appeal must be received by the Veterans Court 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).

Accordingly,

IT IS ORDERED THAT:

- (1) The parties are directed to respond, within 30 days of the date of filing of this order, whether this appeal should be dismissed as untimely.
- (2) The briefing schedule is stayed.

FOR THE COURT

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