

NOTE: This order is nonprecedential.

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

HEATHER A. MELTON,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2022-1993

Petition for review of the Merit Systems Protection Board in No. CH-0752-09-0448-M-1.

Before HUGHES, WALLACH, and STOLL, *Circuit Judges*.

PER CURIAM.

O R D E R

In response to the court's August 31, 2022, order to show cause, the Merit Systems Protection Board urges dismissal of this petition for review as untimely. Heather A. Melton has not responded.

The Board entered its final decision in this case on April 21, 2022, affirming the dismissal of Ms. Melton's petition for enforcement. This court received Ms. Melton's petition for review seventy-one days later, on July 1, 2022.

Section 7703(b)(1)(A) of title 5 of the U.S. Code mandates that a petition for review “shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.” This deadline is jurisdictional and not subject to equitable tolling. *See Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1016 (Fed. Cir. 2017). Thus, we only consider whether the petition for review was timely filed. Ms. Melton’s petition here was received outside of the 60-day filing deadline, and we therefore dismiss.

Accordingly,

IT IS ORDERED THAT:

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

FOR THE COURT

November 9, 2022
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court