

NOTE: This order is nonprecedential.

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

VONDELISE JONES,
Petitioner

v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

2023-1703

Petition for review of the Merit Systems Protection Board in No. CH-0831-20-0072-I-1.

Before LOURIE, MAYER, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

In response to this court's August 30, 2023, show cause order, the Merit Systems Protection Board urges dismissal of this petition for review as untimely. Vondelise Jones has not responded.

Ms. Jones appealed to the Board from a decision of the Office of Personnel Management finding she was not eligible for a survivor annuity. The administrative judge affirmed the decision. Ms. Jones petitioned the Board for review. On January 24, 2023, the Board dismissed her

petition as untimely filed without good cause shown. This court received Ms. Jones's petition on March 28, 2023 (63 days after the Board's January 2023 decision).*

"[A] petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit . . . within 60 days after the Board issues notice of the final order or decision." 5 U.S.C. § 7703(b)(1)(A). This requirement is "mandatory and jurisdictional," and thus cannot be waived or equitably tolled. *Fedora v. Merit Sys. Prot. Bd.*, 848 F.3d 1013, 1016 (Fed. Cir. 2017) (citation omitted); *cf.* Fed. R. App. P. 26(b)(2) (prohibiting this court from extending or reopening the time to file the petition for review "unless specifically authorized by law"). Because Ms. Jones's petition for our review was received outside of the 60-day filing deadline, we dismiss.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for review is dismissed.
- (2) Each party shall bear its own costs.

* Although Ms. Jones checked the box in her Form 10: Statement Concerning Discrimination indicating that she raised a discrimination claim before the Board, *see* ECF No. 7 at 1, the record before the court does not suggest she raised such a claim during the Board proceedings.

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(3) All pending motions are denied.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

November 6, 2023
Date