

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

KEVIN FOX,

Appellant,

DOCKET NUMBER

AT-0752-10-1091-I-1

v.

DEPARTMENT OF THE TREASURY,

Agency.

DATE: July 25, 2012

THIS FINAL ORDER IS NONPRECEDENTIAL¹

Kevin Fox, Duluth, Georgia, pro se.

Andrew M. Greene, Atlanta, Georgia, for the agency.

BEFORE

Susan Tsui Grundmann, Chairman

Anne M. Wagner, Vice Chairman

Mark A. Robbins, Member

FINAL ORDER

The agency has filed a petition for review of the June 22, 2011 Initial Decision in this appeal. Initial Appeal File, Tab 14; Petition for Review File (PFR File), Tab 2. During later settlement discussions, the agency decided to

¹ A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions. In contrast, a precedential decision issued as an Opinion and Order has been identified by the Board as significantly contributing to the Board's case law. See [5 C.F.R. § 1201.117\(c\)](#).

withdraw the petition for review. The parties then submitted a Joint Stipulation Regarding Withdrawal of Agency Petition for Review With Prejudice to Refile. PFR File, Tab 6. This document includes a joint statement requesting that the petition for review be dismissed with prejudice to refile. *Id.*²

Finding that withdrawal is appropriate under these circumstances, we DISMISS the petition for review as withdrawn with prejudice to refiling.

The initial decision of the administrative judge is final. This is the Board's final decision in this matter. Title 5 of the Code of Federal Regulations, section 1201.113 ([5 C.F.R. § 1201.113](#)).

**NOTICE TO THE APPELLANT REGARDING
YOUR FURTHER REVIEW RIGHTS**

You have the right to request the United States Court of Appeals for the Federal Circuit to review this final decision. You must submit your request to the court at the following address:

United States Court of Appeals
for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

The court must receive your request for review no later than 60 calendar days after your receipt of this order. If you have a representative in this case, and your representative receives this order before you do, then you must file with the court no later than 60 calendar days after receipt by your representative. If you choose to file, be very careful to file on time. The court has held that normally it does not have the authority to waive this statutory deadline and that filings that do not comply with the deadline must be dismissed. *See Pinat v. Office of Personnel Management*, [931 F.2d 1544](#) (Fed. Cir. 1991)

² We note that the typewritten docket number referenced in the joint stipulation is incorrect and crossed out and that the correct docket number, AT-0752-10-1091-I-1, is handwritten directly underneath. PFR File, Tab 6.

If you need further information about your right to appeal this decision to court, you should refer to the federal law that gives you this right. It is found in Title 5 of the United States Code, section 7703 ([5 U.S.C. § 7703](#)). You may read this law, as well as review the Board's regulations and other related material, at our website, <http://www.mspb.gov>. Additional information is available at the court's website, www.cafc.uscourts.gov. Of particular relevance is the court's "Guide for Pro Se Petitioners and Appellants," which is contained within the court's Rules of Practice, and Forms 5, 6, and 11.

FOR THE BOARD:

William D. Spencer
Clerk of the Board

Washington, D.C.