

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

KIMBERLY L. GOINS,  
Appellant,

DOCKET NUMBER  
DC-0752-12-0213-I-1

v.

DEPARTMENT OF  
TRANSPORTATION,  
Agency.

DATE: September 28, 2012

**THIS FINAL ORDER IS NONPRECEDENTIAL<sup>1</sup>**

Kimberly L. Goins, Washington, D.C., pro se.

Mary J. Lee, Esquire, and Elizabeth S. Martineau, Esquire, Washington,  
D.C., for the agency.

**BEFORE**

Susan Tsui Grundmann, Chairman  
Anne M. Wagner, Vice Chairman  
Mark A. Robbins, Member

**FINAL ORDER**

The appellant has petitioned for review of the July 10, 2012 initial decision in this appeal. Initial Appeal File, Tab 44; Petition for Review (PFR) File, Tab 1. For the reasons set forth below, we DISMISS the petition for review as settled.

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<sup>1</sup> A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions.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\(c\)](#).

After the filing of the petition for review, the agency filed a response indicating that the appellant's petition for review should be denied because the petition for appeal was dismissed as settled below and that the agency has complied with all terms in the settlement agreement. PFR File, Tab 3. The appellant replied that she did not object to the dismissal of the petition for review. *Id.*, Tab 4.

Accordingly, we find that dismissal of the petition for review "with prejudice to refiling" (i.e., the parties normally may not refile this appeal) is appropriate under these circumstances.

This is the final order of the Merit Systems Protection Board in this appeal. Title 5 of the Code of Federal Regulation, section 1201.113 ([5 C.F.R. § 1201.113](#)).

#### **NOTICE TO THE PARTIES OF THEIR ENFORCEMENT RIGHTS<sup>2</sup>**

If the agency or the appellant has not fully carried out the terms of the agreement, either party may ask the Board to enforce the settlement agreement by promptly filing a petition for enforcement with the office that issued the initial decision on this appeal. The petition should contain specific reasons why the petitioning party believes that the terms of the settlement agreement have not been fully carried out, and should include the dates and results of any communications between the parties. [5 C.F.R. § 1201.182\(a\)](#).

#### **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:

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<sup>2</sup> Because the initial decision did not provide the parties with notice of their enforcement rights, we have set forth those rights here.

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).

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](http://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:

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William D. Spencer  
Clerk of the Board

Washington, D.C.