

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

FREDDIE M. PETE,  
Appellant,

DOCKET NUMBER  
DA-3443-12-0359-I-1

v.

UNITED STATES POSTAL SERVICE,  
Agency.

DATE: February 8, 2013

**THIS FINAL ORDER IS NONPRECEDENTIAL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

Freddie M. Pete, Houston, Texas, pro se.

Jennifer L. Janeiro, Esquire, Dallas, Texas, for the agency.

**BEFORE**

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

**FINAL ORDER**

The appellant has filed a petition for review in this case asking us to reconsider the initial decision issued by the administrative judge, which dismissed the appellant's appeal for lack of jurisdiction. Generally, we grant petitions such as this one only when: the initial decision contains erroneous

---

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 A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future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

findings of material fact; the initial decision is based on an erroneous interpretation of statute or regulation or the erroneous application of the law to the facts of the case; the judge's rulings during either the course of the appeal or the initial decision were not consistent with required procedures or involved an abuse of discretion, and the resulting error affected the outcome of the case; or new and material evidence or legal argument is available that, despite the petitioner's due diligence, was not available when the record closed. *See* Title 5 of the Code of Federal Regulations, section 1201.115 ([5 C.F.R. § 1201.115](#)).<sup>2</sup> After fully considering the filings in this appeal, and based on the following points and authorities, we conclude that the petitioner has not established any basis under section 1201.115 for granting the petition for review. Therefore, we DENY the petition for review and AFFIRM the initial decision issued by the administrative judge, which is now the Board's final decision. [5 C.F.R. § 1201.113\(b\)](#).

The appellant filed an appeal from the agency's action in collecting a debt from her, specifically, an amount representing 144 hours of annual leave that she had been advanced and for which she was paid prior to her separating from the agency. In dismissing the appeal, the administrative judge found that there is no statutory or regulatory provision that gives the Board jurisdiction over an appeal from an agency's action related to assessing and collecting debts from an appellant for advanced leave. Initial Decision at 3. The appellant does not challenge, and we discern no error in, the administrative judge's finding. *See Secrist v. U.S. Postal Service*, [115 M.S.P.R. 199](#), ¶ 5 (2010) (no law, rule, or regulation grants the Board jurisdiction over a debt-collection action except in the context of the recovery of an overpayment in retirement benefits by the Office of

---

<sup>2</sup> Except as otherwise noted in this decision, we have applied the Board's regulations that became effective November 13, 2012. We note, however, that the petition for review in this case was filed before that date. Even if we considered the petition under the previous version of the Board's regulations the outcome would be the same.

Personnel Management, or when the issue is integral to the disposition of an underlying appealable action). In her petition for review, the appellant acknowledges that the agency has returned to her the amount at issue, but she questions the administrative judge's failure to consider the submission she filed in response to his show-cause order. Petition for Review File, Tab 1. The administrative judge did, in fact, consider that submission but found that it failed to address the jurisdictional question at issue in the appeal. Initial Decision at 3. The appellant has not shown error in the administrative judge's finding.<sup>3</sup>

**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 the date of this order. See [5 U.S.C. § 7703](#)(b)(1)(A) (as rev. eff. Dec. 27, 2012). 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](#)) (as rev. eff.

---

<sup>3</sup> The appellant raises this same claim in her reply to the agency's response to her petition for review. Petition for Review File, Tab 5. However, her reply is untimely and does not address the factual or legal issues raised by the agency in its response to her petition for review. See [5 C.F.R. § 1201.114](#)(e), (a)(4).

Dec. 27, 2012). You may read this law as well as other sections of the United States Code, at our website, <http://www.mspb.gov/appeals/uscode/htm>. 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:

-----  
William D. Spencer  
Clerk of the Board

Washington, D.C.