

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

TERESA K. DAY,
Appellant,

DOCKET NUMBER
DA-0841-16-0297-I-1

v.

OFFICE OF PERSONNEL
MANAGEMENT,
Agency.

DATE: November 21, 2016

THIS FINAL ORDER IS NONPRECEDENTIAL *

James R. Hefflin, Newport Beach, California, for the appellant.

Sarah Murray, Washington, D.C., for the agency.

BEFORE

Susan Tsui Grundmann, Chairman
Mark A. Robbins, Member

FINAL ORDER

¶1 The appellant has filed a petition for review of the March 27, 2016 initial decision in this case, which dismissed his appeal for lack of jurisdiction. Initial Appeal File, Tab 8; Petition for Review (PFR) File, Tab 1. During later settlement discussions, the appellant decided to withdraw the petition for review

* A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future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

and submitted a letter to that effect. PFR File, Tab 5. The agency has not objected to the appellant's request to withdraw the petition for review. *Id.*

¶2 Finding that withdrawal is appropriate under these circumstances, we DISMISS the petition for review as withdrawn with prejudice to refiling.

¶3 The initial decision of the administrative judge is final. 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 review of this final decision by the U.S. Court of Appeals for the Federal Circuit. 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. 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.ca9c.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.

If you are interested in securing pro bono representation for an appeal to the U.S. Court of Appeals for the Federal Circuit, you may visit our website at <http://www.mspb.gov/probono> for information regarding pro bono representation for Merit Systems Protection Board appellants before the Federal Circuit. The Merit Systems Protection Board neither endorses the services provided by any attorney nor warrants that any attorney will accept representation in a given case.

FOR THE BOARD:

Jennifer Everling
Acting Clerk of the Board

Washington, D.C.