## **United States Department of Labor Employees' Compensation Appeals Board**

R.W., Appellant	)	
and DEPARTMENT OF JUSTICE, FEDERAL	) ) )	Docket No. 24-0095 Issued: November 30, 2023
BUREAU OF PRISONS, FEDERAL CORRECTIONAL INSTITUTION POLLOCK, Pollock, LA, Employer	) ) ))	
Appearances: Appellant, pro se Office of Solicitor, for the Director	)	Case Submitted on the Record

## ORDER DISMISSING APPEAL

## Before:

JANICE B. ASKIN, Judge VALERIE D. EVANS-HARRELL, Alternate Judge JAMES D. McGINLEY, Alternate Judge

On November 13, 2023 appellant filed an appeal from an August 10, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0095.

The Board has duly considered the matter and notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.<sup>1</sup> For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.<sup>2</sup>

The  $180^{\text{th}}$  day following the August 10, 2022 decision was February 6, 2023. As appellant did not file an appeal with the Board until November 13, 2023, more than 180 days

<sup>&</sup>lt;sup>1</sup> 5 U.S.C. § 8101 et seq.; 20 C.F.R. §§ 501.2(c) and 501.3(a).

<sup>&</sup>lt;sup>2</sup> 20 C.F.R. § 501.3(e) provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP."

after the August 10, 2022 OWCP decision, the Board finds that the appeal docketed as No. 24-0095 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant argued that his appeal should be deemed timely, alleging that he was given incorrect instructions by OWCP in filing his Board appeal. However, this explanation is insufficient to establish compelling circumstances as required under section 501.3(e) of the Board's *Rules of Procedure*.<sup>3</sup> Because there is no final adverse decision issued by OWCP within 180 days of the filing of the instant appeal, the Board concludes that the appeal docketed as No. 24-0095, must be dismissed.<sup>4</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the appeal docketed as No. 24-0095 is dismissed.

Issued: November 30, 2023

Washington, DC

Janice B. Askin, Judge Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge Employees' Compensation Appeals Board

<sup>&</sup>lt;sup>3</sup> Id. 20 C.F.R. § 501.3(e) further provides: "The Board maintains discretion to extend the time period for filing an appeal if an applicant demonstrates compelling circumstances. Compelling circumstances means circumstances beyond the appellant's control that prevent the timely filing of an appeal and does not include any delay caused by the failure of an individual to exercise due diligence in submitting a notice of appeal."

<sup>&</sup>lt;sup>4</sup> The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." *Id.* at § 501.6(d).