23-21 HARROW V. DEPARTMENT OF DEFENSE

DECISION BELOW: 2023 WL 1987934

LOWER COURT CASE NUMBER: 2022-2254

QUESTION PRESENTED:

When a federal employee petitions the U.S. Court of Appeals for the Federal Circuit to review a final decision of the Merit Systems Protection Board, 5 U.S.C. § 7703(b)(1)(A) provides: "Notwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board." In the decision below, the Federal Circuit relied on settled circuit precedent holding this filing deadline to be jurisdictional, despite recent opinions from other Circuits and this Court holding analogous filing deadlines to be nonjurisdictional.

The question presented is whether the 60-day deadline in Section 7703(b)(1)(A) is jurisdictional.

CERT. GRANTED 12/8/2023