

IN THE UTAH COURT OF APPEALS

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Jose G. Lopez,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner,)	
)	Case No. 20100371-CA
v.)	
)	
Department of Workforce)	F I L E D
Services, Workforce Appeals)	(July 15, 2010)
Board,)	
)	2010 UT App 190
Respondent.)	

Original Proceeding in this Court

Attorneys: Jose G. Lopez, Salt Lake City, Petitioner Pro Se
 Jaceson R. Maughan, Salt Lake City, for Respondent

Before Judges Orme, Thorne, and Voros.

PER CURIAM:

Jose G. Lopez petitions for review of the Workforce Appeals Board's (the Board) decision determining that it lacked jurisdiction to consider Lopez's appeal because it was untimely. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review. Lopez did not respond to the motion.

An Administrative Law Judge's decision will be considered final unless a claimant initiates further review within thirty days after the issuance of the decision. See Utah Code Ann. § 35A-4-406(3)(e) (2005). Under Department of Workforce Services rules, however, the Board may consider an untimely appeal if good cause is shown for the delay in filing. See Utah Admin. Code R994-508-104. Good cause may be shown where

- (1) the appellant received the decision after the expiration of the time limit for filing the appeal, the appeal was filed within ten days of actual receipt of the decision and the delay was not the result of willful neglect;

- (2) the delay in filing the appeal was due to circumstances beyond the appellant's control;
or
(3) the appellant delayed filing the appeal for circumstances which were compelling and reasonable.

Id.

The Board determined that Lopez had failed to establish good cause under the rule. The Board found that Lopez had time to file the appeal before he went to jail. Moreover, he did not provide any reason that he could not have filed an appeal even while in jail. Lopez has not challenged the Board's findings. Accordingly, he has not shown that the Board erred in its determination.

Affirmed.

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge