

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Decided July 10, 2018

No. 14-1022

JAMES L. ROBERTS,
PETITIONER

v.

NATIONAL TRANSPORTATION SAFETY BOARD AND FEDERAL
AVIATION ADMINISTRATION,
RESPONDENTS

On Motions to Supplement Equal Access to Justice Act
Application

David B. Anderson and *Deanna L. Weidner* were on the motions to supplement Equal Access to Justice Act application and the reply for petitioner.

Sonia M. Carson and *Charles W. Scarborough*, Attorneys, U.S. Department of Justice, were on the opposition for the respondents.

Before: WILKINS, *Circuit Judge*, and SENTELLE and RANDOLPH, *Senior Circuit Judges*.

Opinion for the Court filed PER CURIAM.

PER CURIAM: Before us is the application of James L. Roberts for attorney’s fees and expenses he incurred in 2014 and 2015 in connection with his successful petition for judicial review in *Roberts v. National Transportation Safety Board*, 776 F.3d 918 (D.C. Cir. 2015).¹ Roberts filed his application with this court pursuant to 28 U.S.C. § 2412. Section 2412 requires a party seeking fees and expenses to file an application “within thirty days of final judgment in the action.” *Id.* § 2412(d)(1)(B). Our decision in *Roberts v. National Transportation Safety Board* became final on April 23, 2015. The limitations period in § 2412 runs from the time of final judgment in “*the court before which the civil action is pending*,” not from the final decision of an administrative agency. *Melkonyan v. Sullivan*, 501 U.S. 89, 94 (1991) (emphasis in original); *see also id.* at 94–95. Because Roberts submitted his § 2412 application on May 4, 2018, more than three years after this court’s final judgment, his application was untimely. We therefore deny it.

So ordered.

¹ The subject of Roberts’ petition for judicial review was the National Transportation Safety Board’s denial of his request, which he filed pursuant to 5 U.S.C. § 504, for legal fees and expenses incurred in administrative proceedings. This court ruled in Roberts’ favor and remanded the case to the Board. On April 4, 2018, the Board granted Roberts’ application for fees and expenses.