

PERMAN v. GOVERNMENT

FRANCISCO PERMAN, Appellant
v.
GOVERNMENT OF THE TRUST TERRITORY
OF THE PACIFIC ISLANDS, Appellee
Civil Appeal No. 341
Appellate Division of the High Court
Ponape District
March 11, 1983

Appeal from Trial Division order dismissing a petition for review challenging an adverse administrative decision. The Appellate Division of the High Court, Miyamoto, Associate Justice, held that under Administrative Procedure Act, a person adversely affected by agency action is entitled to judicial review even if more than thirty days transpire between the agency action and the filing of the petition for review, and therefore dismissal of petition was reversed and the case remanded for further proceedings.

Administrative Law—Judicial Review—Time for Filing Petition

Under the Administrative Procedure Act, a person adversely affected by agency action is entitled to judicial review even if more than 30 days transpire between the agency action and the filing of the petition for review. (17 TTC § 12(2))

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ana Islands

Before MUNSON, *Chief Justice*, MIYAMOTO, *Associate Justice*, and LAURETA, *Associate Justice (Temporary)*

MIYAMOTO, *Associate Justice*

Francisco Perman appeals the Trial Division's order dismissing his Petition for Review challenging an adverse administrative decision by the Trust Territory Personnel Board. The government does not contest the appeal.

On January 12, 1979, the Trust Territory Personnel Board upheld the government's termination of Perman's employment. Pursuant to 17 TTC § 12, Perman petitioned for judicial review of the Board's decision on April 29, 1979. On July 27, 1979, he moved for a trial de novo. The Trial Division entered its dismissal order on August 6, 1980. The court ruled that under 6 TTC § 352, Perman's petition was time-barred by the thirty-day period for filing notice of appeal. The motion for trial de novo was not acted upon.

The plain language of 6 TTC § 352 instructs that the statute's thirty-day notice of appeal provision applies to the review of *court* decisions. Nothing in § 352 or in the

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Administrative Procedure Act (17 TTC § 1, et seq.) suggests that a petition for review of administrative action is to be deemed a “notice of appeal” which is subject to § 352. Oddly enough, there is no provision in the Administrative Procedure Act that sets the time within which a Petition for Review must be filed in the Trial Division of the High Court. So, we conclude that under 17 TTC § 12(2), a person adversely affected by agency action is entitled to judicial review in the Trial Division even if more than thirty days transpire between the agency action and the filing of the petition for review. We note with approval that in *Helgenberger v. Government of the Trust Territory of the Pacific Islands*, Civil Action No. 5-76, Judgment (H.C. Tr. Div. December 21, 1976), the trial division judge acted on the Petition for Review even though the Petition for Review was filed one hundred and eight days after the contested agency action.

Accordingly, we vacate the Trial Division’s order and remand for further proceedings.

REMANDED.