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# United States Court of Appeals for the Federal Circuit

06-3024

GERMAN M. QUIAMBAO,

Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Respondent.

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DECIDED: April 6, 2006

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Before SCHALL, DYK, and PROST, Circuit Judges.

PER CURIAM.

German M. Quiambao (“Quiambao”) appeals the final decision of the Merit Systems Protection Board (the “Board”) denying his request for retirement benefits under the Civil Service Retirement System (“CSRS”). We affirm.

## BACKGROUND

Quiambao was employed as a blacksmith by the Department of the Navy at Subic Bay in the Philippines beginning on December 8, 1965. On May 16, 1966, after the one-year probationary period, his appointment was converted to an indefinite appointment. Quiambao retired on June 26, 1987, and requested CSRS retirement benefits on January 10, 1989. OPM denied the request on August 17, 1989. Though his appeal to the Board was not filed until October 14, 2004, the Board excused the late-filing because OPM could not prove that Quiambao received the August 17, 1989

decision. On the merits, the Board denied Quiambao's claim because his service in an Indefinite Excepted Appointment did not satisfy the statutory requirements for CSRS benefits. The Board's decision became final on August 19, 2005, and Quiambao timely appealed. We have jurisdiction pursuant to 28 U.S.C. § 1295(a)(9).

## DISCUSSION

We must affirm the Board's decision unless it was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule or regulation; or unsupported by substantial evidence. 5 U.S.C. § 7703(c) (2000); Yates v. Merit Sys. Prot. Bd., 145 F.3d 1480, 1483 (Fed. Cir. 1998).

To qualify for CSRS retirement benefits, Quiambao must show that he satisfies the requirements of 5 U.S.C. § 8333 and that he is not excluded under any provision limiting CSRS coverage. 5 U.S.C. § 8333 (2000); 5 U.S.C. § 8347(g) (2000); Rosete v. Office of Pers. Mgmt., 48 F.3d 514, 516 (Fed. Cir. 1995). While Quiambao was an employee of the federal government, we have held repeatedly that employees serving in indefinite appointments made after January 23, 1955, are expressly excluded from CSRS coverage under 5 C.F.R. § 831.201(a)(13). Casilang v. Office of Pers. Mgmt., 248 F.3d 1381, 1383 (Fed. Cir. 2001); Rosete, 48 F.3d at 516-17. The Board's decision is affirmed.

No costs.