

Designated for electronic publication only

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 15-1280

CONLEY F. MONK, JR., ET AL.,

PETITIONERS,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before SCHOELEN, GREENBERG, and ALLEN, *Judges*.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

On April 6, 2015, Conley F. Monk, Jr., filed a petition with the Court for extraordinary relief in the nature of a writ of mandamus. The petition sought an order from the Court directing the Secretary to decide certain appeals within 1 year of the date on which a Notice of Disagreement (NOD) was submitted. The petitioner filed the petition on behalf of himself and a class of similarly situated persons facing financial and medical hardship.¹

On January 12, 2018, the Court granted petitioner's Amended Motion for Leave to File an Amended Petition for Extraordinary Equitable and Collective Relief and Join Additional Parties (Amended Petition).²

On August 23, 2018, the motion for class certification was denied by an equally divided en banc Court. *Monk v. Wilkie*, 30 Vet.App. 167 (2018). On August 24, 2018, the en banc panel determined that the matter should proceed before a panel of the Court.

On October 16, 2018, the petitioners filed an appeal with the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) challenging this Court's order denying class certification.

¹ The petition alleged that the Secretary's delay in adjudicating claims for disability compensation benefits, which are pending an administrative appeal before VA, constitutes a violation of the right to procedural due process under the Fifth Amendment to the U.S. Constitution. Additionally, the petition alleged that the Secretary's delay in adjudicating disability compensation claims was unreasonable.

² Eight additional parties were joined to the petition, including: James Briggs, Tom Coyne, William Dolphin, Jimmie Hudson, Samuel Merrick, Lyle Obie, Stanley Stokes, and William Jerome Wood II.

On March 27, 2019, the Court held oral argument. Considering the petitioners' pending appeal before the Federal Circuit, the Court has determined that the Court will be materially assisted in the disposition of the amended petition by a memorandum of law from each party addressing this Court's jurisdiction over this petition.

Upon consideration of the foregoing, it is

ORDERED that within 14 days of this order, the parties are directed to each file a memorandum of law addressing the issue identified above. The memorandum of law must be no longer than 10 pages long and should comply with the provisions of Rules 28 and 32 of the Court's Rules of Practice and Procedure governing the filing of a principal brief.

DATED: March 29, 2019

PER CURIAM.

Copies to:

Michael J. Wishnie, Esq.

VA General Counsel (027)