

*Not published*

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

NO. 15-1704

WALTER G. SHEPPARD,

APPELLANT,

v.

ROBERT A. McDONALD,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before HAGEL, *Chief Judge*.

**ORDER**

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

On June 20, 2016, the Secretary filed a motion for a 45-day extension of time to file his brief. The Secretary cited work load considerations as the reason for the request. The Clerk of the Court, exercising his authority under Rule 45(g)(4) of the Court's Rules of Practice and Procedure (Rules), granted the Secretary's motion on the same day. U.S. VET. APP. R. 45(g)(4). However, on June 23, 2016, Mr. Sheppard filed a response opposing the Secretary's motion for an extension of time, alleging that the Secretary's assertions did not give rise to good cause. The following day, the Clerk of the Court revoked his order granting the extension of time.

Under Rule 31(a)(2) of the Court's Rules, "the Secretary shall serve and file a brief not later than 60 days after service of the appellant's brief." U.S. VET. APP. R. 31(a)(2). As of June 20, 2016, the date that the Secretary filed his motion for a 45-day extension of time to file his brief, 60 days had passed since Mr. Sheppard had filed his informal brief. Now, the Secretary requests an additional 45 days.

"The Court, on its own initiative or on a party's motion for good cause shown, may extend the time set by these Rules for doing any act" as prescribed in the Court's Rules. *Id.* at 26(b). Further, under Rule 26(b) "[t]he Court may grant an extension of time not to exceed a total of 45 days . . . for good cause." *Id.* Here, because the Secretary does not request an extension longer than 45 days and his brief is necessary to move Mr. Sheppard's case forward, the Court finds that good cause exists. However, although the Court will grant the Secretary's motion for a 45-day extension, it notes that requesting additional time to file a brief on the day it is due is poor practice and the Court will consider this history in the event that the Secretary requests further extensions.

Upon consideration of the foregoing, it is

ORDERED that the Secretary's June 20, 2016, motion for a 45-day extension of time to file his brief is GRANTED.

DATED: July 1, 2016

BY THE COURT:



/s/ Lawrence B. Hagel

LAWRENCE B. HAGEL  
Chief Judge

Copies to:

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