

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-3523

MARK J. STILES,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*.

ORDER

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

On May 21, 2020, veteran Mark J. Stiles filed, through counsel, a Notice of Appeal following a November 14, 2019, decision of the Board of Veterans' Appeals (Board) that remanded claims seeking higher disability evaluations for service-connected chronic sinusitis and allergic rhinitis.

On October 5, 2020, the Secretary filed a motion to dismiss the appeal for lack of subject matter jurisdiction. On October 19, 2020, Mr. Stiles responded to the Secretary's motion, stating that prior to the Board decision, he submitted correspondence asserting that two claims—service connection for sleep apnea and service connection for vertigo—had been pending for over 10 years and that the Board should refer those claims to the VA regional office for development and adjudication; however, the Board took no action. Mr. Stiles argued that the Court has jurisdiction to address the lawfulness of the Board's declination of jurisdiction. On March 12, 2021, the Court granted the Secretary's motion, concluding, in part, that the Board's remand order was not a final decision and Mr. Stiles did not challenge that the Board lacked jurisdiction to adjudicate any pending claim.

On March 25, 2021, Mr. Stiles file a motion for reconsideration and, in the alternative, for panel consideration.

Upon consideration of the foregoing, it is

ORDERED that the Secretary, within 30 days after the date of this order, file a response to Mr. Stiles's motion.

DATED: June 8, 2021

BY THE COURT:

A handwritten signature in black ink, appearing to read "Margaret Bartley", written in a cursive style.

MARGARET BARTLEY
Chief Judge

Copies to:

Adam R. Luck, Esq.

VA General Counsel (027)