

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-3047

WALTER BRINKMAN,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, and TOTH and JAQUITH, *Judges*.

ORDER

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

On October 5, 2021, the appellant's counsel notified the Court that Mr. Walter Brinkman had died. Later, the appellant's counsel, in response to a Court order, provided evidence that Mr. Brinkman's death occurred on August 23, 2021. On October 6, 2021, the Court canceled oral argument previously set for October 14, 2021, at 10:00 a.m. On November 5, 2021, Gloria J. Greer, the veteran's daughter, filed, through counsel, a motion for substitution. *See Breedlove v. Shinseki*, 24 Vet.App. 7, 13 (2010) (per curiam order). On January 10, 2022, in response to a Court order, the Secretary explained that on January 7, 2022, the Milwaukee Regional Office accepted Ms. Greer's application for substitution. The Secretary also stated that he does not oppose the motion to substitute.

The Court is satisfied that it has jurisdiction over this appeal and, pursuant to *Breedlove*, will grant Ms. Greer's motion for substitution. Specifically, regarding substitution, the Court in *Breedlove* held that the enactment of 38 U.S.C. § 5121A, although not directly applicable to this Court, "nonetheless alter[ed] the underpinnings of this Court's jurisprudence on substitution," and that "a veteran's chapter 11 disability benefits claim survives the death of the veteran, not for the purpose of providing VA benefits to a veteran, but for purposes of furthering the processing of the claim of an eligible accrued-benefits claimant." *Breedlove*, 24 Vet.App. at 8. Additionally, the Court will order that oral argument be rescheduled so that proceedings in this matter may continue.

Upon consideration of the foregoing, it is

ORDERED that Gloria Greer's motion for substitution as the appellant is granted nunc pro tunc to August 23, 2021, the date of the veteran's death. It is further

ORDERED that the Clerk of the Court shall change the caption of the case to reflect that Gloria J. Greer is now the appellant. It is further

ORDERED that the Clerk of the Court shall reschedule oral argument as the business of the Court permits.

DATED: January 31, 2022

PER CURIAM.

Copies to:

Kenneth M. Carpenter, Esq.

VA General Counsel (027)