

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 22-3061

DOUGLAS L. HAILEY,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, ALLEN, and JAQUITH, *Judges*.

ORDER

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

On May 23, 2022, appellant Douglas L. Hailey filed a Notice of Appeal challenging a May 10, 2022, action of the Board of Veterans' Appeals denying a motion to advance his case on the Board's docket. On May 27, 2022, the Secretary filed a motion to dismiss the appeal. On July 29, 2022, the Court issued a single judge order granting the motion to dismiss. On August 16, 2022, appellant filed a motion for reconsideration or, in the alternative, panel consideration. A panel was convened in this matter on January 12, 2023, and the Court heard argument on the Secretary's motion to dismiss on May 16, 2023.

On January 17, 2024, the Secretary notified the Court that the underlying merits matter before the Board was distributed to a Veterans Law Judge for a decision. On February 12, 2024, appellant informed the Court that he received a February 8, 2024, decision from the Board on the underlying merits matter. Appellant's submission argues that although the Board issued a decision in the matter that was the subject of his motion for advancement, the appeal pending before the Court is not moot. Appellant further requests the opportunity to show cause why his appeal is not moot.

We agree with appellant that further briefing is warranted concerning the mootness question. We therefore direct the parties to submit supplemental briefing addressing whether the issuance of the Board's February 8, 2024, decision moots the pending appeal.

Accordingly, it is

ORDERED that, within 21 days of the date of this order, each party file a supplemental submission not exceeding 10 pages addressing the matter set forth above.

DATED: February 14, 2024

PER CURIAM.

Copies to:

Michael S. Just, Esq.

VA General Counsel (027)