

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

MALCOLM MELANCON, JR.,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 09-1752
)	
ERIC K. SHINSEKI,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

**SECRETARY’S RESPONSE TO COURT ORDER DATED
MARCH 30, 2011**

On March 30, 2011, the Court ordered the Secretary to supplement the Record of Proceedings (ROP). The Court noted that Appellant had referred to a decision of the Department of Veterans Affairs (VA) Regional Office (RO) dated prior to December 1991, regarding the grant of “30% non-service connection” for his disorder. The Court further indicated that the only rating decision included in the Record of Proceedings (ROP) pertaining to that time period is dated December 1991. Therefore, the Court directed the Secretary to supplement the record to include any RO decisions that were issued in relation to Appellant’s claim prior to the December 1991 decision, or explain his inability to do so. Pursuant to the Court’s Order, Appellee Eric K. Shinseki, Secretary of Veterans Affairs, hereby provides the following response.

On April 4, 2011, the Secretary informed the Court that a review of Appellant's claims file was required to ascertain whether a rating decision dated prior to December 1991 exists. Counsel for the Secretary searched Appellant's claims file, but has been unable to locate a rating decision prior to December 1991 pertaining to Appellant's claim or that had granted him "30% non-service connection" for his condition. Also, in Appellee's response to Appellant's informal brief, Counsel for the Secretary indicated that a November 1991 rating decision had denied Appellant's claim of entitlement to service connection for hepatitis C. Appellee's Brief at 3 (citing R. at 686-87). However, Counsel submits that the November 1991 reference was an error. November 1991 is the date Appellant filed his claim. (See R. at 686, 692-96). December 1991 is the date of the rating decision that denied Appellant's for service connection for hepatitis C. (R. at 681-686).

In light of the foregoing, the Secretary submits that a rating decision dated prior to December 1991 regarding Appellant's claim does not exist. Therefore, it is not possible for the Secretary to supplement the ROP with any such document.

WHEREFORE, the Secretary respectfully responds to the Court's March 30, 2011, Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On April 18, 2011, a copy of the foregoing was mailed postage prepaid to:

Malcolm Melancon, Jr.,
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I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/Bobbiretta E. Jordan
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