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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 14-3006

FRANK L. ROBINSON III, PETITIONER,

v.

ROBERT A. McDONALD,
SECRETARY OF VETERANS AFFAIRS, RESPONDENT.

Before BARTLEY, *Judge*.

ORDER

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

On September 10, 2014, veteran Frank L. Robinson III, filed through counsel a petition for extraordinary relief in the nature of a writ of mandamus. The petition alleged that the St. Petersburg VA regional office (RO)—following a December 2010 Board of Veterans' Appeals (Board) decision that granted service connection for a psychiatric disorder and remanded the issue of entitlement to a total disability evaluation based on individual unemployability (TDIU)—issued a January 2011 rating decision assigning staged evaluations for the psychiatric disorder and granting TDIU. Petition at 3 & Appendix at 1-24. The petition further alleged that Mr. Robinson filed a timely, December 2011 Notice of Disagreement (NOD) as to the disability evaluations and effective dates assigned. *Id.* at 4 & Appendix at 25. Last, the petition indicated that, despite numerous inquiries from the veteran's counsel and a statement of financial hardship, the RO had not yet issued a Statement of the Case (SOC) but continued to advise Mr. Robinson that his NOD would be addressed in due course. *See id.* at 4-7 & Appendix at 26-80.

Mr. Robinson asked the Court to issue a writ of mandamus ordering the Secretary, via the St. Petersburg RO, to issue an SOC in response to his December 2011 NOD, arguing that the delay of, in this case, almost three years, amounts to an arbitrary refusal to act. Petition at 3, 8-11. In light of these allegations, the Court deferred ruling and ordered the Secretary to file an answer to the petition. *See* U.S. VET. APP. R. 21(d). The Secretary responded on October 20, 2014, advising that the RO issued the requested SOC on September 24, 2014, and arguing that the petition should be dismissed as moot.

This Court adheres to the case-or-controversy jurisdictional requirements imposed by Article III of the U.S. Constitution. *See Mokal v. Derwinski*, 1 Vet.App. 12, 13-15 (1990). When the relief requested in a petition has been obtained, the appropriate course of action is for the Court to dismiss

the petition as moot. *Thomas v. Brown*, 9 Vet.App. 269, 270-71 (1996) (per curiam order); *see also* *Bond v. Derwinski*, 2 Vet.App. 376, 377 (1992) (per curiam) ("When there is no case or controversy, or when a once live case or controversy becomes moot, the Court lacks jurisdiction."). Because Mr. Robinson has been afforded the relief requested in his petition, albeit belatedly, there is no continuing case or controversy before the Court. Thus, the Court will dismiss the petition. *See Thomas*, 9 Vet.App. at 270-71; *Bond*, 2 Vet.App. at 377.

Although the petition for a writ of mandamus must be dismissed as moot, the Court is once again troubled by VA's lack of attention to the timely adjudication of claims for benefits, particularly in view of the fact that Mr. Robinson's claim had been remanded by the Board in December 2010 and should have been given expeditious treatment by VA. *See Vargas-Gonzalez v. Principi*, 15 Vet.App. 222, 225-30 (2001) (holding that remand by the Board of any element of a claim requires expeditious treatment of all elements of that claim that are subsequently adjudicated). Nevertheless, and despite numerous inquiries from the veteran's counsel (*see* Petition, Appendix at 68-78), the RO incorrectly indicated that it would adjudicate Mr. Robinson's December 2011 NOD in the order in which it was received (*id.*, Appendix at 66). Now that the Secretary is aware of the near-three-year delay in issuing an SOC, the Court trusts that VA will in future adjudicate these matters in an expeditious manner and that further petitions for extraordinary relief on the veteran's behalf will not be necessary.

Upon consideration of the foregoing, it is

ORDERED that Mr. Robinson's petition for extraordinary relief in the nature of a writ of mandamus is DISMISSED.

DATED: October 29, 2014

BY THE COURT:



MARGARET BARTLEY
Judge

Copies to:

Robert V. Chisholm, Esq.

VA General Counsel (027)