

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 16-5149

FRANCISCO L. MARCELINO,

APPELLANT,

v.

DAVID J. SHULKIN, M.D.,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

ORDER

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

The appellant appeals an April 5, 2016, Board of Veterans' Appeals (Board) decision denying him service connection for obesity. Oral argument is set for Wednesday, November 15, 2017, at 10:00 a.m.

To assist the Court in its review, the parties should be prepared to discuss whether the Court has jurisdiction to review whether VA should consider obesity a disability under the rating schedule, in addition to the other issues raised in the parties' briefing. *See Wanner v. Principi*, 370 F.3d 1124, 1131 (Fed. Cir. 2009) (Secretary's discretion over the rating schedule, including content selected, is insulated from judicial review).

It is so ORDERED.

DATED: November 8, 2017

PER CURIAM.

Copies to:

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VA General Counsel (027)