

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

JAMES C. CHILDERS,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 16-2832
)	
DAVID J. SHULKIN, M.D.,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

**APPELLEE'S PRELIMINARY RESPONSE TO COURT ORDER
DATED NOVEMBER 16, 2017**

On November 16, 2017, the Court ordered Appellee to “advise the Court whether the appellant has a survivor eligible to receive accrued benefits and, if so, provide the survivor's contact information. Second, advise the Court whether VA has yet received a request from such survivor for substitution on the appellant's pending claim. And third, advise the Court whether VA has yet undertaken any steps to identify and notify the survivor, if any, of the survivor's eligibility for substitution and, if not, whether and how VA intends to do so.” See November 16, 2017, Order.

Appellee presents this preliminary response to the Court’s November 16, 2017, Order because the Regional Office (RO) suddenly and unexpectedly closed due to inclement weather, prior to providing Appellee with a final sworn declaration, and thus Appellee is unable to finalize the official response from the RO in the form of a sworn declaration

addressing the Court's questions, and provide such response to this Court. It is not clear when the RO will reopen. Appellee will provide a complete response to the Court's Order within 7 days.

Pursuant to the Court's November 16, 2017, Order, Appellee hereby preliminarily advises the Court as follows:

- (1) The Secretary is unaware of any survivor eligible to receive accrued benefits, as the Veteran was divorced, and thus did not have a surviving spouse, and his two children are adults. The RO has informally stated that the adult daughters are Megan Hood, residing at 9774 Misty Bay Cove, Arlington, TN 38002, and Kristen C. Kellner, residing at 746 N. Ericson Road, Cordova, TN 38018.
- (2) The RO has stated that no request for substitution has been received as of the filing of Appellee's response to the Court Order. Further, Counsel for the Appellee has reviewed the Veteran's VBMS file and confirms that it does not contain any claim for substitution or other benefits from the Veteran's survivors.
- (3) The Secretary is not able to fully answer whether any steps have been taken to identify and notify the survivor, if any, of the survivor's eligibility for substitution and, if not, whether and how VA intends to do so because the RO had not finalized its response to this question at the time of its unexpected closing. The Secretary will coordinate

with the RO upon its reopening, and provide a final response to the Court's third question.

The Secretary sincerely apologizes for the incomplete nature of this response and will make every effort to expeditiously obtain the information needed from the Regional Office, to include a sworn declaration, to fully answer the Court's questions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was mailed, via First Class Mail, this 16th day of January, 2018, to the following:

Estate of James C. Childers
2030 Irongate Drive, Apt. 101
Collierville, TN 38017

/s/ Anita U. Ajenifuja

Anita U. Ajenifuja