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

No. 18-2417

JAMES H. OATES, APPELLANT,

v.

ROBERT L. WILKIE,  
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before PIETSCH, ALLEN, and FALVEY, *Judges*.

**ORDER**

The appellant, James H. Oates, appeals through counsel a January 12, 2018, Board of Veterans' Appeals decision that denied entitlement to a disability rating higher than 90% for degenerative joint disease of the right hip, status post femoral head fracture, from May 20, 2015, and granted entitlement to a rating of total disability based on individual unemployability (TDIU) from May 20, 2015. On June 27, 2019, the case was submitted to a panel of the Court and oral argument was scheduled for November 19, 2019.

On November 5, 2019, the parties filed a joint motion to terminate the appeal, along with a stipulated agreement. In the stipulated agreement, the parties agree to an award of a separate 10% disability rating for painful motion of the lumbar spine, effective May 20, 2015. The Court will grant the parties' motion.

Based on the parties' implicit waiver of their appellate rights, under Rule 41(b) of the Court's Rules of Practice and Procedure this order will serve as mandate of the Court.<sup>1</sup>

Upon consideration of the foregoing, it is

ORDERED that the parties' joint motion to terminate the appeal is GRANTED. It is further

ORDERED that this order is the mandate of the Court.

DATED: November 14, 2019

PER CURIAM.

Copies to:

Jeany C. Mark, Esq.

VA General Counsel (027)

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<sup>1</sup> See *Bly v. Shulkin*, 883 F.3d 1374, 1377 (Fed. Cir. 2018).