

*Designated for electronic publication only*

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

No. 18-4746

DOROTHY M. SEGUI, APPELLANT,

v.

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

Before BARTLEY, *Chief Judge*, and PIETSCH and ALLEN, *Judges*.

**ORDER**

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

Appellant Dorothy Segui is the surviving spouse of Joseph Segui. She challenges a May 10, 2018, Board decision that denied entitlement to an earlier effective date for a total disability rating based on individual unemployability (TDIU). Specifically, the Board denied TDIU effective before May 30, 2006.

This case was submitted to a panel to address whether the Board erred when it concluded that a June 1992 vocational rehabilitation letter failed to establish an earlier effective date for TDIU before addressing whether that letter constituted "cogent evidence of unemployability" under *Comer v. Peake*, 552 F.3d 1362 (Fed. Cir. 2009). The Court scheduled oral argument for February 11, 2020.

On January 28, 2020, the parties filed a joint motion for partial remand (JMPR). The JMPR requests that the Court vacate the May 10, 2018, Board decision with respect to appellant's claim for an earlier effective date for TDIU. The parties agree partial remand is necessary because the Board provided an inadequate statement of reasons or bases when it denied entitlement to an earlier effective date for TDIU. The JMPR also states that appellant does not challenge the Board's decision to deny the following:

(1) [A] rating in excess of 20% for a lumbosacral spine disability; (2) a rating in excess of 20% for degenerative joint disease (DJD) of the left and right knees; (3) a rating in excess of 10% for DJD of the left and right hip; (4) a rating in excess of 10% for DJD of the left and right elbows; and (5) special monthly compensation based on the need for regular aid and attendance of another person, all for the purposes of accrued benefits.

The JMPR asks the Court to dismiss the appeal for those claims appellant does not challenge. Also, the JMPR states that "[t]he parties agree to unequivocally waive any right to appeal the Court's order on this joint motion and respectfully ask that the Court enter mandate upon the granting of this motion."

Upon consideration of the foregoing, it is

ORDERED that the January 28, 2020, joint motion for partial remand is granted. It is further

ORDERED that the Board's May 10, 2018, decision denying entitlement to an earlier effective date for TDIU is VACATED and those matters are REMANDED for additional proceedings in accordance with the terms of the parties' joint motion for partial remand. It is further

ORDERED that the appeal is DISMISSED with respect to the Board's May 10, 2018, decision denying entitlement to (1) a rating in excess of 20% for a lumbosacral spine disability; (2) a rating in excess of 20% for degenerative joint disease (DJD) of the left and right knees; (3) a rating in excess of 10% for DJD of the left and right hip; (4) a rating in excess of 10% for DJD of the left and right elbows; and (5) special monthly compensation based on the need for regular aid and attendance of another person. And it is further

ORDERED, consistent with Rule 41(b) of the Court's Rules of Practice and Procedure, that this order is the mandate of the Court.

DATED: February 6, 2020

PER CURIAM.

Copies to:

Alexandra Curran, Esq.

VA General Counsel (027)