

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-2108

LILLA K. STEPHENS,

PETITIONER,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before ALLEN, *Judge*.

ORDER

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

Lilla Stephens has filed a petition for extraordinary relief. She asks the Court to order the Secretary to act on a Notice of Disagreement she submitted on July 28, 2016, with respect to an August 10, 2015, rating decision denying service connection for a mental health disorder. It does not appear VA has taken any action on the NOD. In addition, petitioner reports that she submitted requests for a status update on her claim on August 7, 2019, and October 21, 2019, and has received no response.

Pursuant to the All Writs Act, this Court has authority to issue extraordinary writs in aid of its jurisdiction. 28 U.S.C. § 1651(a). *See Cox v. West*, 149 F.3d 1360, 1363-64 (Fed. Cir. 1998). However, "the remedy of mandamus is a drastic one, to be invoked only in extraordinary situations." *Kerr v. U.S. Dist. Court*, 426 U.S. 394, 402 (1976). Three conditions must be met before the Court may issue a writ: (1) petitioner must demonstrate that he lacks adequate alternative means to obtain the desired relief, thus ensuring that the writ is not used as a substitute for the appeals process; (2) petitioner must demonstrate a clear and indisputable right to the writ; and (3) the Court must be convinced, given the circumstances, that the issuance of the writ is warranted. *See Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004).

Based solely on the petition, the Court is unable to determine whether the issuance of a writ compelling the action petitioner seeks is warranted in this matter. Accordingly, it is

ORDERED that within 30 days of this order, the Secretary file a response to the petition addressing petitioner's claims. In his response, the Secretary shall specifically address petitioner's contention that the VA has failed to respond to the requests for information concerning the status of her claims.

DATED: March 26, 2020

BY THE COURT:



MICHAEL P. ALLEN
Judge

Copies to:

Colin E. Kemmerly, Esq.

VA General Counsel (027)