

*Not published*

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

No. 18-2049

MARVIN ADAMS,

APPELLANT,

v.

ROBERT L. WILKIE,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, PIETSCH, GREENBERG, ALLEN,  
MEREDITH, TOTH, and FALVEY, *Judges*, and DAVIS, *Senior Judge*.<sup>1</sup>

**ORDER**

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

Represented veteran Marvin Adams appeals an April 9, 2018, decision of the Board of Veterans' Appeals (Board) to refer rather than remand the issue of entitlement to a total disability evaluation based on individual unemployability to a VA agency of original jurisdiction. On April 30, 2019, the parties argued this case before a three-Judge panel of this Court. On December 27, 2019, the case was submitted to the en banc Court.

Because the Court would be aided by further briefing, the parties are ordered to submit supplemental memoranda of law addressing:

- (1) Whether, given the issuance of a February 11, 2020, Board decision and Mr. Adams's March 18, 2020, withdrawal of a motion to vacate that decision, the issue currently on appeal has become moot, and,
- (2) If the issue is moot, do any exceptions to mootness apply here.

The parties' memoranda should not exceed 14 pages in length, excluding any attachments or exhibits not barred from the Court's consideration under *Kyhn v. Shinseki*, 716 F.3d 572 (Fed. Cir. 2013), and should be supported by reference to statutes, regulations, caselaw, or other authority. The parties must attach to their memoranda any authority that may not be readily available to the Court through sources that can be electronically searched.

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<sup>1</sup> Judge Davis is a Senior Judge acting in recall status. *In re: Recall of Retired Judge*, U.S. VET. APP. MISC. ORDER 03-20 (Jan. 2, 2020). He was a member of the underlying panel and elected to participate in this en banc Court review. See IOP VII(b)(1)(A).

Upon consideration of the foregoing, it is

ORDERED that, not later than 30 days after the date of this order, the parties serve on each other and file with the Court memoranda of law as described above.

DATED: April 3, 2020

PER CURIAM.

Copies to:

Zachary M. Stolz, Esq.

VA General Counsel (027)