

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-2621

TYRONE A. BUNCH,

PETITIONER,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before PIETSCH, *Judge*.

ORDER

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

On April 14, 2020, petitioner Tyrone A. Bunch filed through counsel a petition for extraordinary relief in the nature of a writ of mandamus. In his petition, he asks the Court to compel the Secretary to respond to whether his request for a Board of Veterans' Appeals (Board) hearing was timely filed. Petition at 2. Mr. Bunch explained that VA issued a Statement of the Case (SOC) on October 5, 2017, denying service connection for left and right knee chondromalacia, a low back condition, post-traumatic stress disorder, and tinnitus. He asserts that the SOC was mailed to an incorrect address and returned to VA by the U.S. Postal Service with a notation "unable to forward, return to sender." *Id.* On January 22, 2018, Mr. Bunch states that he checked the status of his case, discovered an SOC had been issued, and requested a Board hearing. In April and May 2019, counsel inquired about the status of Mr. Bunch's case and whether VA intended to process his request for a hearing. Mr. Bunch contends that VA did not respond and the Veterans Benefits Management System reflects that his case is closed.

Pursuant to the All Writs Act, 28 U.S.C. § 1651(a), before the Court may issue a writ, three conditions must be satisfied: (1) the petitioner must demonstrate that he lacks adequate alternative means to obtain the desired relief, thus ensuring that the writ is not a substitute for the appeals process; (2) the 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 on the facts alleged in this petition, the Court will order the Secretary to respond to Mr. Bunch's contentions. The Secretary should also provide the Court with any other information that he feels would help resolve this matter.

ORDERED that the Secretary respond to this petition not later than 21 days after the date of this order.

DATED: April 20, 2020

BY THE COURT:

A handwritten signature in blue ink, reading "Coral W. Pietsch". The signature is fluid and cursive, with the first name "Coral" and last name "Pietsch" clearly legible.

CORAL W. PIETSCH
Judge

Copies to:

Michael A. Steinberg, Esq.

VA General Counsel (027)