

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-1898

TERRY G. WATSON,

PETITIONER,

v.

ROBERT L. WILKIE,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before GREENBERG, *Judge*.

ORDER

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

On March 9, 2020, Terry G. Watson filed a petition for a writ of mandamus asking the Court to compel the Secretary to accept his Notice of Disagreement (NOD), additional evidence, and grant him entitlement to specially adapted housing and automobile allowance.

The petitioner alleges that VA denied his claim in December 2019. Shortly after, the petitioner contends he submitted a statement in support of his claim with additional evidence. The Secretary responded that the submissions would not be accepted because it was not on the correct form.

On March 23, 2020, the petitioner also filed a motion to substitute parties upon his death, citing the current COVID-19 pandemic, his increased risk factors, and potential exposure inside the correctional facility he is incarcerated. However, a claimant must die before an eligible person may be substituted. *See* 38 U.S.C. § 5121A. The Court notes that an eligible party may be substituted within one year of a veteran's death. *See id.*

Based on the allegation that VA will not accept the petitioner's NOD, a response is warranted. To the extent the appellant presents various arguments pertaining to the merits of individual claims, the Court cannot address those arguments as part of a petition and must be part of an appeal of the underlying Board decision. It is

ORDERED that the petitioner's motion to substitute is denied. It is further

ORDERED that that part of the petition pertaining to the merits of the petitioner's claims is denied. It is further

ORDERED that within 14 days of the date of this order, the Secretary shall respond to the Court and provide the status of the petitioner's claim, including whether the petitioner's NOD has been processed, whether the petitioner has been provided with the correct forms, and whether any additional evidence has been or will be submitted.

DATED: April 21, 2020

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William S. Greenberg", with a long horizontal flourish extending to the right.

WILLIAM S. GREENBERG
Judge

Copies to:

Terry G. Watson

VA General Counsel (027)