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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-7347

JACKSON C. KILLEN, APPELLANT,

V.

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

Before MEREDITH, *Judge*.

ORDER

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

On October 22, 2019, the pro se appellant filed a Notice of Appeal (NOA) listing October 9, 2019, as the date of the Board of Veterans' Appeals (Board) decision being appealed; attached to his NOA is a statement indicating his desire to appeal the evaluation of bilateral arm skin cancer, squamous cell skin cancer, and actinic keratosis. The Secretary moved to dismiss the appeal on November 13, 2019, contending that the appellant had not obtained a final decision from the Board dated October 9, 2019. The Court subsequently issued an order noting that it has jurisdiction to review only final adverse Board decisions, and directed the appellant, within 20 days after the date of the Court's order, to show cause why the appeal should not be dismissed, including that he provide a copy of the decision that he seeks to appeal. The appellant filed a response on March 2, 2020, asserting that he "would like to correct the date of the [Board] decision," stating that the "decision date is May 2, 2019, with the letter date being October 28, 2019," and asking the Court to "not dismiss [his] case." March 2, 2020, Response at 1. Attached to his response is a copy of the May 2, 2019, Board decision, an October 9, 2019, VA rating decision, and an October 28, 2019, VA letter regarding his May 2, 2019, Board decision.

The Court notes that the May 2, 2019, Board decision granted entitlement to disability benefits for skin cancer of the bilateral arms, squamous cell skin cancer, and actinic keratosis of the face, arms, and ears, and remanded the remaining claims to a regional office for further consideration and development; the October 9, 2019, rating decision implemented the Board decision and assigned noncompensable ratings effective March 22, 2012, for each of the grants of service connection; and the October 28, 2019, letter includes an explanation of VA's decision. *See* March 2, 2020, Response; Attachments.

This Court's review is limited by statute to appeals from final Board decisions taken by claimants who are adversely affected by those decisions. *See* 38 U.S.C. §§ 7252(a), 7266(a); *In re Quigley*, 1 Vet.App. 1, 1 (1990). The Court has no jurisdiction to review VA decisions that have not first been considered and finally adjudicated by the Board. *See Hibbard v. West*, 13 Vet.App. 546, 548 (2000) (per curiam order) ("Our jurisdiction is statutorily limited to the appeal of [Board] decisions which are adverse to a claimant."); *see also Urban v. Principi*, 18 Vet.App. 143, 146 (2004) (per curiam order), *aff'd sub nom. Urban v. Nicholson*, 128 F. App'x 154 (Fed. Cir. 2005). Because the Board has not issued a final adverse decision on the appellant's claims, and the October 9, 2019, rating decision is not a final Board decision, the Court lacks jurisdiction.

Upon consideration of the foregoing, the Court will dismiss the instant appeal. To the extent that the appellant is dissatisfied with the disability ratings assigned in the October 9, 2019, rating decision for his service-connected conditions, he is free to seek redress from VA. In that regard, the Secretary may forward a copy of the appellant's NOA to the appropriate entity within VA. Accordingly, it is

ORDERED that the Secretary's motion to dismiss is granted and this appeal is DISMISSED for lack of jurisdiction.

DATED: May 4, 2020

BY THE COURT:



AMANDA L. MEREDITH
Judge

Copies to:

Jackson C. Killen

VA General Counsel (027)