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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-9104

ROBERT S. BARR, 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 December 27, 2019, the appellant filed a Notice of Appeal (NOA) from a December 10, 2019, decision of the Board of Veterans' Appeals (Board). In that decision, the Board granted entitlement to service connection for a substance abuse disorder secondary to service-connected major depressive disorder. The Secretary filed a motion to dismiss the instant appeal for lack of jurisdiction on March 6, 2020, asserting that there is no existing case or controversy for the Court to adjudicate. He concurrently filed a motion to stay proceedings pending disposition of his motion to dismiss, which the Court granted.

The Court ordered the appellant, on April 1, 2020, to show cause, within 20 days, why this appeal should not be dismissed for lack of jurisdiction. The appellant did not respond to the Court's order.

To obtain review of a final Board decision, an appellant generally must submit an NOA to the Court within 120 days after the date on which notice of the Board's decision was mailed. 38 U.S.C. § 7266. In addition, because this Court adheres to the case-or-controversy jurisdictional restraints provided for in Article III of the U.S. Constitution, the Board decision sought to be appealed must have been adverse to the appellant. *See Mokal v. Derwinski*, 1 Vet.App. 12, 13-15 (1990); *see also McRae v. Brown*, 9 Vet.App. 229, 233 (1996) (per curiam).

Here, the Board granted entitlement to service connection for a substance abuse disorder secondary to service-connected major depressive disorder. Because that was the only issue on appeal to the Board, the Board's decision was fully favorable to the appellant, and there is no adverse decision that he can appeal to the Court. *See* 38 U.S.C. § 7266; *see also Medrano v. Nicholson*, 21 Vet.App. 165, 170 (2007); *Bond v. Derwinski*, 2 Vet.App. 376, 377 (1992) (per

curiam order) ("This Court's jurisdiction is confined to the review of final Board . . . decisions which are adverse to a claimant.").

On consideration of the foregoing, it is

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

DATED: May 8, 2020

BY THE COURT:



AMANDA L. MEREDITH
Judge

Copies to:

Robert S. Barr

VA General Counsel (027)