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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 alleged that VA denied his claim in December 2019. The petitioner contended that he submitted a statement in support of his claim with additional evidence shortly after the denial. The Secretary responded that the submission would not be accepted because it was not on the correct form.

On April 21, 2020, the Court ordered the Secretary to respond 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.

On May 5, 2020, the Secretary responded and informed the Court that on January 21, 2020, VA received the appellant's "VA Form 20-0996, *Decision Review Request for Higher Level Review*, as to all three of his claims . . . which [are] currently pending under the jurisdiction of the Decision Review Operations Center." Secretary's Response at 3. The Secretary also informed the Court that on February 21, 2020, the petitioner submitted an NOD on "VA Form 21-0958, [an] obsolete . . . form," and that the petitioner's claim remained in the higher-review lane, as requested on January 21, 2020. *Id.* The Secretary noted that "new and relevant evidence"¹ can be submitted

¹ "New and relevant evidence" is "evidence not previously part of the actual record before agency adjudicators. Relevant evidence is information that tends to prove or disprove a matter at issue in a claim. Relevant evidence includes evidence that raises a theory of entitlement that was previously not addressed." 38 C.F.R.

at any time and the claim can be moved to the supplemental claim lane. Secretary's Response at Exhibit 1, at 2-3.

Based on the foregoing, the Court is satisfied that the Secretary is acting upon the petitioner's claim. It is

ORDERED that the petitioner's March 9, 2020, petition be DISMISSED as moot.

DATED: May 15, 2020

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William S. Greenberg", with a stylized flourish at the end.

WILLIAM S. GREENBERG
Judge

Copies to:

Terry G. Watson

VA General Counsel (027)

§ 3.2501(a)(1) (2019). "The new and relevant standard will not impose a higher evidentiary threshold than the previous new and material evidence standard under [38 C.F.R.] § 3.156(a)." 38 C.F.R. § 3.2501(a).