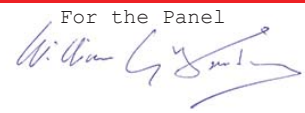


MOTION DENIED

For the Panel



July 30, 2020

William Greenberg
Judge

IN THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

MARK H. BONNER,

Appellant,

v.

ROBERT L. WILKIE,
Secretary of Veterans Affairs,

Appellee.

Vet. App. No. 18-6927

APPELLEE'S MOTION FOR CLARIFICATION OF THE ISSUES

The Court ordered this case submitted to panel on June 22, 2020, and has since scheduled oral argument for October 23, 2020, at 10:00 a.m. Given the myriad of issues implicated in the instant case and to help facilitate a focused and thorough response by the parties to the Court, pursuant to U.S. Vet. App. Rule 27, the Secretary hereby respectfully moves the Court for clarification as to whether there are particular issues the Court wishes counsel to address at oral argument.

The arguments raised in Appellant's briefs and responded to within the Secretary's brief include:

1. Whether a February 1976 Rating Decision was final or remained open due to alleged insufficient notice.
2. Whether the September 1974 initial claim of entitlement to service connection for the cause of the Veteran's death, listed as "cancer" on the application, and as "Hodgkin's disease" on the death certificate and autopsy report, could encompass a claim of entitlement to service connection for the cause of the Veteran's death due to non-diagnosed non-Hodgkin's lymphoma.

3. Whether a subsequently promulgated regulation, 38 C.F.R. § 3.313 (1994), can serve to support a finding of clear and unmistakable error in a 1976 Rating Decision.

Therefore, Appellant respectfully moves the Court for clarification of the issue, or issues, to be addressed at oral argument. Counsel for Appellee was consulted and is opposed to this motion.

Respectfully submitted,

WILLIAM A. HUDSON, JR.
Principal Deputy General Counsel

MARY ANN FLYNN
Chief Counsel

/s/ Sarah W. Fusina
SARAH W. FUSINA
Deputy Chief Counsel

/s/ Margaret E. Sorrenti
MARGARET E. SORRENTI
Appellate Attorney
Office of the General Counsel (027H)
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420
(202) 632-6790
Margaret.Sorrenti@va.gov