

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-4179

ROBERT ROLLINS,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before GREENBERG, *Judge*.

ORDER

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

On December 10, 2020, the appellant's counsel notified the Court of the appellant's death and filed a motion to stay proceedings based on judicial efficiency under Rule 5(a)(3). On January 24, 2021, the appellant's counsel filed a motion to stay proceedings until February 23, 2021. In his motion, the appellant's counsel informed the Court that on January 16, 2021, Erma Rollins submitted the proper paperwork to the VA regional office (RO) to effectuate her substitution at VA, which was received by the RO on January 19, 2021. The appellant's counsel noted that the RO had not yet acted on the request to substitute.

On February 14, 2021, Erma Rollins, surviving spouse of deceased veteran Robert Rollins, filed an unopposed motion to be substituted as the appellant in this appeal. *Breedlove v. Shinseki*, 24 Vet.App. 7, 13 (2010) (per curiam order). Attached to the motion is a death certificate that indicates that the appellant died on December 4, 2020.

The Court is satisfied that it has jurisdiction over this appeal and, pursuant to *Breedlove*, will grant Erma Rollins motion for substitution. Specifically, with regard to substitution, the Court in *Breedlove* held that the enactment of 38 U.S.C. § 5121A, although not directly applicable to this Court, nonetheless altered the underpinnings of this Court's jurisprudence on substitution, and that "a veteran's chapter 11 disability benefits claim survives the death of the veteran, not for the purpose of providing VA benefits to a veteran, but for purposes of furthering the processing of the claim of an eligible accrued-benefits claimant." *Breedlove*, 24 Vet.App. at 8.

On consideration of the foregoing, it is

ORDERED that Erma Rollins' motion for substitution is granted. It is further

ORDERED that the Clerk of the Court shall change the caption of this case to reflect that Erma Rollins is now the appellant. It is further

ORDERED that the appellant, within 30 days after the date of this order file a brief.

DATED: February 24, 2021

BY THE COURT:

A handwritten signature in blue ink, appearing to read "William S. Greenberg", with a long, sweeping horizontal stroke at the end.

WILLIAM S. GREENBERG
Judge

Copies to:

Scott A. Martin, Esq.

VA General Counsel (027)