

*Not published*  
*NON-PRECEDENTIAL*

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

No. 18-2928

MICHAEL L. CHAVIS,

APPELLANT,

v.

DENIS McDONOUGH,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, and MEREDITH, and FALVEY, *Judges*.

**ORDER**

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

On April 16, 2021, in a panel decision, the Court set aside and remanded the portions of an April 20, 2018, decision of the Board of Veterans' Appeals that denied entitlement to an evaluation higher than 40% for a lumbar spine disability and denied entitlement to evaluations higher than 20% for bilateral lower extremity radiculopathy. On May 7, 2021, the Secretary filed a motion for panel reconsideration. "[A] motion for . . . panel [reconsideration] . . . shall state the points of law or fact that the party believes the Court has overlooked or misunderstood." U.S. VET. APP. R. 35(e)(1). The Court did not overlook or misunderstand any argument that was properly before it.

Upon consideration of the foregoing, it is

ORDERED that the motion for reconsideration by the panel is denied.

DATED: May 18, 2021

PER CURIAM.

MEREDITH, *Judge*, dissenting: For the reasons outlined in my dissent to the panel opinion, I believe existing precedent compels the conclusion that the Board of Veterans' Appeals did not have jurisdiction to address on the merits the unappealed, downstream issue of the appropriate rating for bilateral radiculopathy and, therefore, would have granted the Secretary's motion for reconsideration. *See Chavis v. McDonough*, \_\_ Vet.App. \_\_, \_\_, No. 18-2928, 2021 WL 1432578, at \*14-18 (Apr. 16, 2021); U.S. VET. APP. R. 35(e)(1). I thus respectfully dissent.

Copies to:

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