

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-3791

RANDOLPH WILSON,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before PIETSCH, GREENBERG, and JAQUITH, *Judges*.

ORDER

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

Air Force veteran Randolph Wilson appeals a November 27, 2018, Board of Veterans' Appeals (Board) decision that denied an increased rating for hearing loss. He alleges, among other things, that the Board failed to address his peripheral vestibular disorders (PVD) with dizziness and staggering. The Secretary acknowledges that, in his Form 9 appeal, the veteran "indicated an informal intent to seek benefits for PVD, dizziness, or staggering, either as related to his service-connected hearing loss or tinnitus, or as due to service." Secretary's Brief at 8. He argues, however, that the Board was not obligated to discuss these issues because the veteran did not file a formal claim.

On January 6, 2021, after the principal briefing in this case, the Court decided *Bailey v. Wilkie*, 33 Vet.App. 188 (2021), holding that a separate formal claim is not necessary for VA to be required to recognize, develop, and adjudicate a claim for secondary service connection that is reasonably raised by the record during the course of adjudicating a formally initiated claim for a service connected disability. This case raises the question of whether, in similar procedural circumstances, *Bailey's* holding extends to claims for secondary service connection expressly raised to the Board. Given the novelty of the question, the Court seeks supplemental briefing on the matter.

Accordingly, it is

ORDERED that, within 30 days of the date of this order, the parties file supplemental briefs not to exceed 15 pages, addressing the question raised in this order.

DATED: June 8, 2021

PER CURIAM.

Copies to:

Kevin M. Clark, Esq.

VA General Counsel (027)