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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-1637

JULI K. LONAKER, APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

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

ORDER

On March 11, 2019, the appellant Juli K. Lonaker appealed a November 13, 2018, Board of Veterans' Appeals decision that denied the appellant's claim for entitlement to retroactive DEA benefits.

On June 2, 2021, the parties filed a joint motion to terminate this appeal pursuant to the terms set forth in a stipulated settlement agreement. *See* U.S. VET. APP. R. 42. The agreement provides that (1) the Secretary agrees to grant the appellant entitlement to and to remit payment of retroactive dependents' educational assistance (DEA) benefits under chapter 35, title 38, U.S. Code, from May 9, 1994; (2) the Secretary agrees to promptly notify the Veterans Benefits Administration (VBA) with respect to this settlement when the Court finally disposes of the case, and agrees that the VBA shall take prompt action to implement this agreement; (3) the Secretary does not admit that VA or any of its employees committed any error in adjudicating the claim that is the subject of this appeal; (4) the appellant agrees that her appeal pending in the U.S. Court of Appeals for Veterans Claims, U.S. Vet. App. No. 19-1637, shall be terminated, with prejudice, after this agreement is executed; and (5) the parties agree that this agreement is entered into for the purpose of avoiding further litigation and related costs.

Both parties agree that this settlement is based on the unique facts of this case and in no way should be interpreted as binding precedent for the disposition of future cases.

When the Secretary enters into a settlement or stipulated agreement with an appellant, the Board decision giving rise to the appeal is overridden to the extent that the decision was adverse to the claimant. Such an agreement moots the case or controversy in an appeal and deprives the Court of jurisdiction. *Bond v. Derwinski*, 2 Vet.App. 376, 377 (1992) (per curiam). Because the parties in this appeal have entered into a settlement agreement in which the appellant agrees that her pending appeal shall be terminated with prejudice as to the issue addressed in the November 13, 2018, Board decision, the controversy is mooted and the Court lacks jurisdiction. *See id.*

Accordingly, the Court will grant the parties' joint motion to terminate this appeal.

Upon consideration of the foregoing, it is

ORDERED that the joint motion to terminate this appeal is granted. It is further

ORDERED that the appeal is TERMINATED. It is further

ORDERED that this order is the final judgment and mandate of the Court. *See* U.S. VET. APP. R. 41(c)(2).

DATED: June 21, 2021

PER CURIAM.

Copies to:

Kenneth M. Carpenter, Esq.

VA General Counsel (027)