MOTION GRANTED
October 21, 2021
For the Panel

Joseph L. Falvey, Jr.
Judge

IN THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

CHARLES J. LOVE, JR.,

Petitioner,

v.

DENIS McDONOUGH,
Secretary of Veterans Affairs,

Respondent.

Vet. App. No. 21-1323

MOTION FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY WITHIN ONE WEEK OF ORAL ARGUMENT

"When pertinent and significant authority comes to the attention of a party after the party's brief has been filed," U.S. Vet. App. Rule 30(b) requires that the "party shall promptly file notice with the Clerk and serve all other parties." Rule 30(b) also states, however, that "[i]n no case will supplemental authority … be accepted by the Clerk for filing fewer than 7 days preceding a scheduled oral argument, without leave of the Court." *Id.*

The Petitioner, Charles J. Love, Jr. ("Mr. Love") files this Motion for Leave to File Notice of Supplemental Authority regarding *Foster v. McDonough*, ___ Vet. App. ____, Vet. App. Docket No. 19-7442 (Oct. 20, 2021). Mr. Love understands *Foster* to be pertinent and significant for the reasons stated in the Notice of Supplemental Authority that he is submitting for filing together with this Motion for Leave.

In terms of timing, this case's oral argument is currently scheduled for October 22, 2021. Mr. Love seeks to file the Notice of Supplemental Authority regarding *Foster* within one week of that date because the Court issued *Foster* within one week of it. Although Mr. Love

understands Rule 30(b) to permit him to file a Notice of Supplemental Authority regarding *Foster* following the oral argument, he anticipates that the Court might want to explore certain aspects of *Foster* during the oral argument. Mr. Love moves for leave to file the Notice of Supplemental Authority regarding *Foster* now to best facilitate such discussion.

The Secretary, through counsel, has informed Mr. Love, through counsel, that the Secretary does not oppose this Motion for Leave.

October 21, 2021

Respectfully submitted,

/s/ John D. Niles, Esq.

John D. Niles, Esq.
Carpenter Chartered
P.O. Box 2099
Topeka, KS 66601
785-357-5251
john@carpenterchartered.com

Counsel for Petitioner