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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-8291

VETERANS LEGAL ADVOCACY GROUP,

PETITIONER,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

Before GREENBERG, MEREDITH, and LAURER, *Judges*.

ORDER

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

On December 2, 2020, the Veterans Legal Advocacy Group (VLAG) petitioned for extraordinary relief seeking to enjoin the Secretary from sending its clients claims documents and private medical records to an incorrect address and order VA to send all mail to VLAG's current Arlington, Virginia, mailing address.¹ After supplemental briefing from the parties, the Court submitted the case to a panel on July 19, 2021, and the panel held oral argument on October 29, 2021.

During oral argument, the Secretary's counsel argued that this case is moot because VA has corrected the addresses for all VLAG attorneys identified in the petition.² Specifically, she attested that VA has updated the addresses for "all VLAG attorneys identified in this petition" in the VA central database.³ And she stated that VA uses its central database to pull addresses for all mailings, so VA would send all future mailings for the attorneys identified in the petition to VLAG's correct Arlington, Virginia, mailing address. Last, to ensure that this no longer happens, counsel stated that VA will publish a policy on its website that provides guidance to attorneys going forward on how to alert VA of a change of address.⁴ In response to a question on whether the Secretary could provide proof that VA has resolved this issue, the Secretary's counsel offered to provide an affidavit from a VA official.⁵

¹ Petition at 1-10.

² Oral Argument (O.A.) at 24:44-24:53, *Veterans Legal Advocacy Group v. McDonough*, U.S. Vet. App. No. 20-8291 (oral argument held Oct. 29, 2021), <https://www.uscourts.cavc.gov/documents/VLAG.MP3>.

³ O.A. at 17:50-17:53.

⁴ O.A. at 28:50-29:20.

⁵ O.A. at 27:13-27:17.

The Court finds that such an affidavit would help it determine whether the issue raised in the petition is moot. To ensure that the Secretary can confirm that VA will send future mailings for attorneys identified in VLAG's petition to its correct mailing address, the Court will order petitioner to provide the Secretary with the file numbers for all its clients. Then, the Secretary must provide an affidavit, signed by the VA General Counsel, Mr. Richard Sauber; the Board of Veterans' Appeals (Board) Chairperson, Ms. Cheryl Mason; and the Acting Under Secretary for Benefits of the Veterans Benefits Administration, Mr. Thomas J. Murphy, explaining:

1. Whether VA uses the addresses within the VA central database for all correspondence related to veterans' benefits, to include correspondence from the regional offices, Board, and General Counsel's office;
2. whether VLAG's correct Arlington, Virginia, address is within the VA central database and associated with all attorneys identified in the petition and all clients identified by VLAG in its response to this order; and
3. the policy purportedly developed by VA to be published on its website as guidance to ensure that attorneys generally, and VLAG specifically, have the information necessary to update their addresses in a manner that VA will implement Agency-wide, including the exact process for attorneys to update their addresses to ensure that VA properly updates an address for all Agency purposes.⁶

Following the Secretary's submission of the affidavit as outlined above, petitioner will have 10 days to respond, if desired. If petitioner fails to respond within 10 days, the Court will proceed with its evaluation of the case.

For these reasons, it is

ORDERED that, no later than 7 days after the date of this order, petitioner supply the Secretary with the names and file numbers for all of its clients with matters pending before VA and file certification of such to the Court. It is also

ORDERED that, no later than 30 days after the date that petitioner certifies compliance with the order, the Secretary file with the Court an affidavit to the effect set forth above. It is also

ORDERED that, no later than 10 days after the Secretary's response with affidavit is filed, the petitioner may respond.

⁶ A link to the updated website, along with the assurance that following the website's guidance ensures proper correction throughout VA, would be sufficient confirmation.

DATED: November 5, 2021

PER CURIAM.

Copies to:

Harold H. Hoffman, III, Esq.

VA General Counsel (027)