

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-5236

LOUIS FRANTZIS,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before ALLEN, FALVEY and JAQUITH, *Judges*.

ORDER

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

Appellant Louis Frantzis appeals a September 11, 2019, Board of Veterans' Appeals (Board) decision that denied increased staged ratings for a service connected headache disability. On March, 15, 2022, this case was submitted to a panel for a decision. Oral argument is scheduled for April 14, 2022.

Central to the veteran's arguments on appeal is his belief that the Board judge who authors the final Board decision must be the same judge who presided over his Board hearing. This issue was addressed in *Arneson v. Shineski*, 24 Vet.App. 379 (2011). The law has changed since that decision, but its discussion regarding fair process appears relevant to the issue in this case. Although decided on statutory and regulatory grounds, the *Arneson* Court highlighted the interplay between fair process and having the same Board member throughout the appeal process, especially when the Board is assessing the credibility of a claimant.

To assist the Court in the resolution of this appeal, counsel for each party should be prepared to discuss, in addition to the other issues briefed, the impact, if any, of *Arneson v. Shineski* on the matter at hand. In addition, the parties should also be prepared to discuss how the principle of fair process applies here. *See Smith v. Wilkie*, 32 Vet.App. 332, 337 (2020).

Upon consideration of the foregoing, it is

ORDERED that counsel be prepared to discuss the above issues at oral argument.

DATED: April 5, 2022

PER CURIAM.

Copies to:

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VA General Counsel (027)