

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 21-4168

J. RONI FREUND AND MARY S. MATHEWSON,

PETITIONERS,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

RESPONDENT.

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

ORDER

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

On June 21, 2021, petitioners J. Roni Freund and Mary S. Mathewson, through counsel, jointly petitioned the Court seeking extraordinary relief and class action certification. Oral argument was held on February 10, 2022. Following oral argument, on March 10, 2022, the Court ordered the Secretary to provide additional information about this case. The Secretary filed his response on April 11, 2022.

On April 21, 2022, petitioners moved for leave to file a reply to the Secretary's April 11, 2022, response to the Court's March 2022 order. On the same day petitioners filed their motion for leave, the Court also received petitioners' reply to the Secretary's April 2022 response—petitioners' reply has been docketed as received but not yet filed.

In their motion for leave, petitioners primarily assert that the Secretary's April 2022 response to the Court's March 2022 order exceeded the scope of what the Court required in its order. Specifically, they aver that the Secretary's filing of a supplemental memorandum went beyond the affidavit the Court requested from VA and that the Secretary advanced new assertions as to why the Court should dismiss petitioners' request for class certification and class action as moot.

We take no position on the myriad assertions petitioners raise in their motion for leave. Nevertheless, we believe it is appropriate to allow petitioners to reply to the Secretary's response to ensure they have every opportunity to present their arguments in this matter. So, we will grant petitioners' motion for leave to file a reply to the Secretary's April 2022 response. In addition, the Court will order the Clerk of the Court to reflect on the Court's docket that petitioners' reply was filed on the date of this order.

Accordingly, it is

ORDERED that petitioners' April 21, 2022, motion is granted. And it is further

ORDERED that the Clerk of the Court docket petitioners' April 21, 2022, reply as filed as of the date of this order.

DATED: April 26, 2022

PER CURIAM.

Copies to:

John D. Niles, Esq.

VA General Counsel (027)