

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

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| WALTER P. JONES, Petitioner, |) | |
| |) | |
| v. |) | Vet. App. No. 22-1216 |
| |) | |
| DENIS MCDONOUGH, Secretary of Veterans Affairs, |) | |
| Respondent. |) | |

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TO THE COURT'S MAY 4, 2022 ORDER**

Pursuant to U.S. Vet. App. Interim E-Rule 7, the Secretary hereby provides a table of contents for the attachments to this response to the Court's order.

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RESPONDENT'S SECOND RESPONSE TO THE COURT'S MAY 4, 2022 ORDER

On March 1, 2022, Petitioner filed a Petition for a Writ of Mandamus asking the Court to compel VA to adjudicate his claim of entitlement to disability compensation for ischemic heart disease and award the maximum rating and the earliest effective date permitted by law, including but not limited to a claim for aid and attendance. (Petition at 1, 16). The Secretary filed a response to the Petition on April 6, 2022.

On May 4, 2022, the Court ordered the Secretary, not later than 30 days later, to file an additional response providing certain information. The Secretary filed the additional response on May 27, 2022.

The Court's May 4, 2022 Order also ordered the Secretary to continue to provide updated status reports, every 30 days, advising the Court of the status of Petitioner's ischemic heart disease claim. An updated status report is provided herein.

As noted in the Secretary's May 27, 2022 response to the Court's order, Petitioner's claim for service connection for ischemic heart disease was reviewed and denied by the Agency of Original Jurisdiction (AOJ) in a May 13, 2022, Supplemental Statement of the Case (SSOC). (Sec. May 27, 2022 Response, Exhibit 5). Since that time, on June 14, 2022, Petitioner's claim was returned to the Board of Veterans' Appeals (Board) for readjudication. (Exhibit 1). On June 15, 2022, the Board issued a letter confirming receipt of the appeal and indicating that it had resumed its place on the docket. (Exhibit 2).

Based on the foregoing, the Secretary again submits that, inasmuch as Petitioner has been afforded the relief sought, *i.e.*, adjudication of his claim for service connection for ischemic heart disease, his Petition is now moot. See *Thomas v. Brown*, 9 Vet.App. 269, 270–71 (1996) (per curiam order) (when the relief sought by a petition for extraordinary relief has been afforded, the petition is moot); *Bond v. Derwinski*, 2 Vet.App. 376, 377 (1992) (per curiam) (“When there is no case or controversy, or when a once live case or controversy becomes moot, the Court lacks jurisdiction.”); see also *Wolfe v. McDonough*, 28 F.4th 1348, 1358 (Fed. Cir. 2022) (“a mandamus order could only compel action on the appeal” rather than “dictate a particular outcome.”). The Court should dismiss the Petition as moot because Petitioner has been afforded the relief requested.

WHEREFORE, Respondent, Denis McDonough, Secretary of Veterans Affairs, respectfully provides an updated status report as required by the Court's May 4, 2022, Order.

Respectfully submitted,

CATHERINE C. MITRANO

Acting General Counsel

MARY ANN FLYNN

Chief Counsel

/s/ Sarah E. Wolf

SARAH E. WOLF

Deputy Chief Counsel

/s/ Debra L. Bernal

DEBRA L. BERNAL

Senior Appellate Counsel

Office of the General Counsel (027C)

U.S. Department of Veterans Affairs

810 Vermont Avenue, N.W.

Washington, D.C. 20420

(202) 632-4305

For the Secretary of Veterans Affairs

EXHIBIT 1



DEPARTMENT OF VETERANS AFFAIRS

June 14, 2022

WALTER P JONES
9290 NW 98TH TRAIL
LAKE BUTLER, FL 32054-5009

In reply, refer to:
397/OAR
File Number: [REDACTED]
Walter P Jones

Dear Mr. Jones:

We are returning your appeal to the Board of Veterans' Appeals (Board) in Washington, D.C., so that the Board can reach a decision on your appeal.

The Board will notify you as soon as the decision is made.

Sincerely yours,

Regional Office Director

cc: CHRISTOPHER F. ATTIG

EXHIBIT 2



DEPARTMENT OF VETERANS AFFAIRS
Board of Veterans' Appeals
Washington DC 20038

Date: 06/15/22

In Reply Refer To: (014/BR/721)

JONES, WALTER P JR

WALTER P JONES JR
PO BOX 1891
ALACHUA, FL 32616

Dear Appellant:

Your appeal has been returned to the Board of Veterans' Appeals (Board) and has resumed its place on the docket.

Since your appeal was previously remanded for additional development, please be assured that it will be handled expeditiously. Although we will make every effort to decide your appeal as quickly as possible, the time needed to render a decision can vary depending on a number of factors, including the complexity of your appeal.

Please note that you have **90 days from the date of this letter or until the Board issues a decision in your appeal (whichever comes first)** to request a change in representation or to submit additional argument or evidence, if you elect to do so. Any such request or submission must be sent directly to the Board. *See generally* 38 C.F.R. § 20.1304. Please mail any request or submission to the following address: Board of Veterans' Appeals, P.O. Box 27063, Washington, DC 20038.

You may check the status of your appeal via eBenefits, www.eBenefits.va.gov. If you do not already have an eBenefits account, please visit the eBenefits website for more information on how to register. You may also contact the Board at (800) 923-8387, from 8:00 a.m. to 4:30 p.m., Eastern time, Monday through Friday, or via fax at 1-(844) 678-8979. Any questions about factual or legal matters involved in your appeal should be directed to your representative, if you have one.

Sincerely,

**Case Review and Intake & Mail Management
Branch**
Board of Veterans' Appeals

cc: CHRISTOPHER ATTIG