

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 based on what they alleged were unlawful "closings" of their legacy administrative appeals despite the filing of timely Substantive Appeals. Oral argument was held on February 10, 2022, and the matter remains under submission.

On August 8, 2022, counsel for petitioner Ms. Freund informed the Court of her death. On September 8, 2022, counsel submitted Ms. Freund's death certificate, and on September 14, 2022, counsel filed a motion to substitute Mark Freund, Ms. Freund's surviving brother who purportedly has borne part of her final expenses. In his motion, counsel noted that the Secretary had taken no position on the substitution but reserved the right to respond.

The Court seeks the Secretary's position on the motion to substitute so that we may decide how to proceed in this matter. Accordingly, it is

ORDERED that, by the end of the day on September 28, 2022, the Secretary respond to the motion to substitute in accordance with the Court's Rules. *See* U.S. VET. APP. R. 27(b)(1).

DATED: September 19, 2022

PER CURIAM.

Copies to:

John D. Niles, Esq.

VA General Counsel (027)