

Not published
NON-PRECEDENTIAL

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 21-0442

ROBERT B. GOSS,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before PIETSCH, FALVEY, and JAQUITH, *Judges*.

ORDER

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

In an October 17, 2022, memorandum decision, the Court vacated that part of the November 3, 2020, Board of Veterans' Appeals (Board) decision that addressed the reasonableness of the amount of attorney fees awarded and dismissed the appeal for lack of jurisdiction.¹ The Court also denied the appellant's opposed motion to suspend the Court's Rules of Practice and Procedure and to reconsider its September 19, 2022, order that returned the case to a single judge for a decision. On November 7, 2022, the appellant filed a timely motion for panel decision. The motion for decision by a panel will be granted.

Based on review of the pleadings and the record of proceedings, it is the decision of the panel that the appellant fails to demonstrate that 1) the single-judge memorandum decision overlooked or misunderstood a fact or point of law prejudicial to the outcome of the appeal, 2) there is any conflict with precedential decisions of the Court, or 3) the appeal otherwise raises an issue warranting a precedential decision. U.S. VET. APP. R. 35(e); *see also Frankel v. Derwinski*, 1 Vet.App. 23, 25-26 (1990).

Absent further motion by the parties or order by the Court, judgment will enter on the underlying single-judge decision in accordance with Rules 35 and 36 of the Court's Rules of Practice and Procedure.

Upon consideration of the foregoing, it is

ORDERED that the motion for panel decision is granted. It is further

¹ Additionally, the Board determined that the fee agreement between the appellant and the veteran was valid. The Court did not disturb this favorable finding of fact. *See Medrano v. Nicholson*, 21 Vet.App. 165, 170 (2007), *aff'd in part sub nom. Medrano v. Shinseki*, 332 F.App'x 625 (Fed. Cir. 2009).

ORDERED that the single-judge decision remains the decision of the Court.

DATED: February 1, 2023

PER CURIAM.

JAQUITH, *Judge*, dissenting: I respectfully dissent from the order that the single-judge decision remains the decision of the Court for the reasons set forth in my dissent from the September 19, 2022, order dissolving the panel. I continue to believe that the circumstances of this case and faithful application of the criteria spelled out in *Frankel v. Derwinski*, 1 Vet.App. 23 (1990), warrant a precedential decision.

Copies to:

Kenneth M. Carpenter, Esq.

VA General Counsel (027)