

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 22-1018

HERBERT N. HASKELL, II

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, and FALVEY and LAURER, *Judges*.

ORDER

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

On February 18, 2022, veteran Herbert N. Haskell, II, appealed a January 27, 2022, Board of Veterans' Appeals (Board) decision. On June 29, 2023, the case was submitted to a panel of this Court for consideration. Oral argument was held on August 15, 2023, at the University at Buffalo School of Law.

On August 14, 2023, the veteran passed away and his surviving spouse, Margaret Laska, notified the Court and filed a motion to substitute as the appellant. Later that day, the Court ordered Ms. Laska to file a copy of the death certificate and indicate the actions she has taken before VA to establish her eligibility to substitute in this matter. The Court also ordered the Secretary to respond to Ms. Laska's motion. On September 13, 2023, Ms. Laska filed a copy of the death certificate and indicated that she filed an application for dependency and indemnity compensation and a request for substitution with VA. On October 13, 2023, the Secretary responded, indicating that the agency of original jurisdiction (AOJ) had not made a determination on whether Ms. Laska is an eligible substitute.

The Court now seeks further response from the Secretary.

Upon consideration of the foregoing, it is

ORDERED that the Secretary, within 30 days of the date of this order, notify the Court whether the AOJ has determined whether Ms. Laska is an eligible substitute. It is further

ORDERED that if the AOJ has not determined whether Ms. Laska is an eligible substitute within 30 days of the date of this order, the Secretary continue to provide such notification to the Court every 30 days until the AOJ makes such a determination.

DATED: November 13, 2023

PER CURIAM.

Copies to:

Zachary M. Stolz, Esq.

VA General Counsel (027)