

*Not published*

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

No. 22-3726

TERRY L. HAMILTON,

APPELLANT,

v.

DENIS McDONOUGH,  
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before GREENBERG, ALLEN, and TOTH *Judges*.

**ORDER**

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

This case was submitted for panel consideration with oral argument scheduled for January 23, 2024. The parties should anticipate questions on the following issues:

1. Whether the file created by VA in the process of considering and settling a veteran's administrative claim under the Federal Tort Claims Act (FTCA) is constructively part of the record, or otherwise must be made part of the record, when VA is adjudicating his later claims under 38 U.S.C. § 1151 for compensation for the same disabilities.
2. Whether an FTCA administrative claim file created by VA is shielded from disclosure to a veteran under the work-product doctrine and 5 U.S.C. § 552a(d)(5) (the Privacy Act) as information compiled in reasonable anticipation of a civil action or proceeding.
3. The typical contents of an FTCA file and how that information might impact a veteran's section 1151 claims.
4. Whether the work-product doctrine applies in this context, given the pro-claimant nature of veterans law.

Upon consideration of the foregoing, it is

ORDERED that the parties be prepared to discuss the foregoing issues at oral argument.

DATED: November 17, 2023

PER CURIAM.

Copies to:

Zachary M. Stolz, Esq.

VA General Counsel (027)