

*Note: Pursuant to 38 U.S.C. § 7267(d) (1991),
this decision will become the decision of the
Court thirty days from the date hereof.*

UNITED STATES COURT OF VETERANS APPEALS

No. 90-532

JOSEPH S. CHICCO, APPELLANT,

v.

EDWARD J. DERWINSKI,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

On Appellee's Motion For Summary Affirmance
and to Stay Further Proceedings

(Submitted May 22, 1991

Decided July 18, 1991)

Rick Surratt (non-attorney practitioner) was on the brief for appellant.

Raoul L. Carroll, General Counsel, *Barry M. Tapp*, Assistant General Counsel, *Pamela L. Wood*, Deputy Assistant General Counsel, and *David W. Engel* were on the pleadings for appellee.

Before NEBEKER, *Chief Judge*, and MANKIN and IVERS, *Associate Judges*.

PER CURIAM: Appellant, Joseph S. Chicco, seeks non-service-connected disability pension on the basis that his multiple joint arthritis and other disabilities prevent him from obtaining substantially gainful employment. *See* 38 C.F.R. § 4.17 (1990). Appellee, Secretary of Veterans Affairs (Secretary), has filed a motion for summary affirmance on the grounds that a review of the record does not demonstrate any error by the Board of Veterans' Appeals (BVA). Motion papers at 5. This Court has jurisdiction to hear the appeal pursuant to 38 U.S.C. § 7252(a) (formerly § 4052(a)).

A review of the BVA decision and record before us reveals that a remand is warranted for consideration under the principles set forth in *Gilbert v. Derwinski*, U.S. Vet. App. No. 89-53 (Oct. 12, 1990) and *Manio v. Derwinski*, U.S. Vet. App. No. 90-86 (Feb. 15, 1991). It also appears that appellant may have an outstanding claim under 38 U.S.C. § 351 (1988) or a claim for medical malpractice.

We remand this case to the BVA for further action consistent with this opinion. The BVA is further ordered to direct the Regional Office to examine appellant's apparent claims under § 351 and/or for medical malpractice.

It is so Ordered.