

**UNITED STATES COURT OF VETERANS APPEALS**

No. 90-103

CLARENCE T. HATLESTAD,

Appellant,

v.

VA File No. 5 349 819

EDWARD J. DERWINSKI,

Secretary of Veterans Affairs,

Appellee.

Before KRAMER, MANKIN, and STEINBERG, Associate Judges.

**O R D E R**

On March 6, 1991, the Court, retaining jurisdiction, remanded this case to the Board of Veterans' Appeals (Board or BVA) with instructions to answer six specific questions. In a June 7, 1991, decision, the BVA found that appellant did not have service-connected disabilities sufficient to produce unemployability.

On November 18, 1991, pursuant to an order of the Court dated November 4, 1991, appellant filed a statement of issues specifying six questions to be raised on appeal from the Board's June 1991 decision.

On December 4, 1991, appellant moved for a second remand to allow him the opportunity to introduce additional evidence before the Board. The Secretary of Veterans Affairs (Secretary) responded that any such evidence should be the subject of a motion in the regional office to reopen the claim.

On July 8, 1992, the Court issued a second decision in the case. In it, the Court noted that, because appellant had not challenged the Board's compliance, the Court would find non-compliance only if the Board had grossly failed to comply. The Court noted that such was generally not the case, denied appellant's motion for remand, and affirmed the Board's June 7, 1991, decision.

On July 22, 1992, appellant filed a motion for review en banc. Appellant argues that, although he sought remand in order to submit additional evidence to the Board, he neither abandoned nor waived any of the issues previously raised in his November 18, 1991, statement of issues. He also notes that nothing in Rule 27 of this Court's Rules of Practice and Procedure provides that filing a motion for remand precludes the right to file a brief on the merits. Accordingly, appellant states that he has been denied due process of law.

On consideration of the foregoing, it is

ORDERED, sua sponte, that issuance of the Court's judgment pursuant to the July 8, 1992, opinion of the Court is held in abeyance pending further order of the Court. U.S. Vet. App. R. 36 (Clerk shall enter judgment 14 days after opinion becomes decision of the Court unless otherwise ordered by the Court). It is further

ORDERED that appellant's motion for en banc review is held in abeyance pending further order of the Court. It is further

ORDERED that the Secretary, within 30 days after the date of this order, file with the Clerk and serve on appellant a designation of all material in the record of proceedings before the Secretary and the Board not previously made part of the record on appeal.

DATED: September 11, 1992

PER CURIAM.

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