

UNITED STATES COURT OF VETERANS APPEALS

No. 94-609

CARL SMALLWOOD

APPELLANT,

v.

VA FILE NO. 4 163 287

JESSE BROWN,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

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

ORDER

On January 31, 1996, the Court issued an order in this case for the Secretary to submit a supplemental memorandum addressing the following questions:

(1) Was VA's October 1988 letter a denial of the cervical spine disability claim incorporating a notice regarding the submission of new and material evidence, or was it a second request for additional evidence in support of the cervical spine disability claim?

(2) What is the effect upon the Court's jurisdiction of the November 9, 1988, statement identified by the appellant as an "NOD"?

(3) What is the effect upon the Court's jurisdiction of the December 14, 1988, statement identified by the appellant as an "NOD"?

On March 29, 1996, the Secretary filed a motion for leave to file a second supplemental record on appeal. On April 1, 1996, the Secretary filed a memorandum in response to the Court's January 31, 1996, order. Pursuant to the January 31, 1996, order the appellant, who is not represented by counsel, has until May 1, 1996, to file a response to the Secretary's memorandum addressing the same questions. Upon further consideration of the April 1, 1996, pleading submitted by the Secretary and the factual background detailed in the Court's January 31, 1996, order, the Court has determined the need for additional memoranda.

Accordingly it is

ORDERED that, the Secretary's motion for leave to file a second supplemental record on appeal is granted, and the Clerk is directed to file the second supplemental record as of the date of this order. It is further

ORDERED that, any interested individual or entity may, within 30 days after the date of this order, submit a memorandum, as amicus curiae, on the issues stated above. It is further

ORDERED, sua sponte, that within 30 days after the date of this order the appellant may file a memorandum addressing the same issues stated above.

DATED: April 19, 1996

PER CURIAM.