

DESIGNATED FOR PUBLICATION

UNITED STATES COURT OF VETERANS APPEALS

No. 92-23

ROBERT MOORE,

Petitioner,

v.

VA File No. C28-476-468

EDWARD J. DERWINSKI,

Secretary of Veterans Affairs,

Respondent.

Before MANKIN, IVERS, and STEINBERG, Associate Judges.

O R D E R

On July 10, 1991, the Court held that the December 4, 1989, Board of Veterans' Appeals (BVA or Board) decision, which denied petitioner a total rating based on individual unemployability, be reversed and the case remanded for an award of benefits consistent with such a rating. *Moore v. Derwinski*, 1 Vet.App. 356, 359 (1991). The Secretary of Veterans Affairs (Secretary or Respondent) did not appeal the Court's decision to the Federal Circuit within the 60-day time period allotted under U.S. Vet. App. R. 36. Thus, the mandate of this Court was issued on October 8, 1991 pursuant to U.S. Vet. App. R. 41. To date, Respondent has not complied with the mandate of the Court. On December 13, 1991, the Court received the petitioner's request for enforcement of the court's decision. Construing the petitioner's motion liberally, the Court will treat it as a motion for extraordinary relief pursuant to U.S. Vet. App. R. 21 and 28 U.S.C. § 1651(a) (1988).

On consideration of these matters, it is

ORDERED that under the circumstances of this case, the \$50.00 filing fee required to be paid with a motion for extraordinary relief shall be waived. It is further

ORDERED that the Secretary make payment by January 31, 1992, to petitioner consistent with the mandate of this Court. It is further

ORDERED that by January 31, 1992, the Secretary show cause why he should not be held in contempt for failure to comply with an order of the Court under 38 U.S.C. § 7265(a)(3) and (b) (formerly § 4065). It is further

ORDERED that by January 31, 1992, the Secretary show cause why he should not be ordered to pay interest on the amount of entitlement due from March 8, 1987, the effective date ascertained by the BVA.

DATED: JANUARY 10, 1992

BY THE COURT

HART T. MANKIN
Associate Judge

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