

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

GERALD L. SMITH,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2012-7023

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 10-3016, Judge Alan G.
Lance, Sr.

Decided: April 9, 2012

GERALD L. SMITH, of Zephyrhills, Florida, pro se.

JOSEPH A. PIXLEY, Trial Attorney, Commercial Litiga-
tion Branch, Civil Division, United States Department of
Justice, of Washington, DC, for respondent-appellee.
With him on the brief were TONY WEST, Assistant Attor-

ney General, JEANNE E. DAVIDSON, Director, and TODD M. HUGHES, Deputy Director.

Before RADER, *Chief Judge*, PLAGER, and LOURIE, *Circuit Judges*.

PER CURIAM.

Gerald L. Smith seeks review of a decision of the United States Court of Appeals for Veterans Claims (“Veterans Court”).¹ That decision affirmed a June 29, 2010, decision of the Board of Veterans’ Appeals (“Board”) that denied service-connected disability benefits for Mr. Smith’s prostate cancer. Because Mr. Smith does not raise any issues within our jurisdiction, we *dismiss* his appeal.

BACKGROUND

Mr. Smith served in the United States Navy from October 1955, through July 1976. He was diagnosed with prostate cancer in December 2004. In February 2005, he requested service-connected disability benefits, contending that his prostate cancer is due to exposure to Agent Orange during his military service.

The Department of Veterans Affairs Regional Office denied Mr. Smith’s claim, and the Board affirmed. The Veterans Court agreed, holding that Mr. Smith was not entitled to a presumption of Agent Orange exposure under 38 C.F.R. § 3.307(a)(6)(iii) because he was not present “at some point on the landmass or the inland waters of Vietnam,” *Haas v. Peake*, 525 F.3d 1168, 1197

¹ *Smith v. Shinseki*, memorandum decision, No. 10-3016, 2011 WL 5041683 (Vet. App. Oct. 25, 2011).

(Fed. Cir. 2008), and that his proffered evidence was not competent to establish that he was actually exposed to Agent Orange while in service. *Smith* at *2. Mr. Smith now appeals to this court.

DISCUSSION

This court's review of Veterans Court decisions is strictly limited by statute. Unless an appeal presents a constitutional issue, we "may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case." 38 U.S.C. § 7292(d)(2).

This case falls well within the parameters of a case that turns on an application of established laws and regulations to the facts and circumstances of the case. Because we may not review these types of challenges, *see* 38 U.S.C. § 7292(d)(2), we dismiss Mr. Smith's appeal for lack of appellate jurisdiction.²

DISMISSED

² While this case was pending before this court, Mr. Smith submitted several pieces of additional material addressing the merits of his case. That material, if it is to now be considered, must be considered through the proper procedures of veteran administrative law. *See* 38 U.S.C. §§ 5103A(f) and 5108; 38 C.F.R. § 3.156(a).