

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-7115

CARL L. WARE

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims in 07-2573, Judge
Ronald M. Holdaway.

ON MOTION

Before LOURIE, FRIEDMAN, and GAJARSA, Circuit Judges.

PER CURIAM.

ORDER

The Secretary of Veterans Affairs moves to waive the requirements of Fed. Cir. R. 27(f) and to dismiss Carl L. Ware's appeal from the United States Court of Appeals for Veterans Claims' judgment in Ware v. Shinseki, 07-2573, for lack of jurisdiction.

Ware sought review by the Court of Appeals for Veterans Claims of a Board of Veterans' Appeals decision denying Ware's claim for an earlier effective date for service connection due to paranoid schizophrenia. In its decision, the Board determined that Ware was not entitled to an earlier effective date based on an earlier claim because Ware did not allege that the Board's decision on the earlier claim was based on clear and unmistakable error. Ware appeals to this court.

Under 38 U.S.C. § 7292, this court has limited jurisdiction over appeals from decisions of the Court of Appeals for Veterans Claims. See Forshey v. Principi, 284

F.3d 1335, 1338 (Fed. Cir. 2002) (en banc). This court "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).

In his informal brief, Ware only argues that the Board failed to properly weigh the medical evidence related to his schizophrenia in denying his claim for an earlier effective date for service connection. Because Ware fails to raise an issue within our jurisdiction, we must dismiss this appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The Secretary's motions are granted. The appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

OCT 09 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Carl L. Ware
Scott A. MacGriff, Esq.

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ISSUED AS A MANDATE: OCT 09 2009

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

OCT 09 2009

JAN HORBALY
CLERK