

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-7138

THESOLONIA MCLEAN,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

ON MOTION

Appeal from the United States Court of Appeals for Veterans Claims in
07-3415, Judge Ronald M. Holdaway.

Before MICHEL, Chief Judge, SCHALL and LINN, Circuit Judges.

PER CURIAM

ORDER

The Secretary of Veterans Affairs moves to waive the requirements of Fed. Cir. R. 27(f) and dismiss this appeal for lack of jurisdiction.

Thesolonia McLean sought review by the Court of Appeals for Veterans Claims of a Board of Veterans' Appeals decision denying McLean's claim for entitlement to service connection for post-traumatic stress disorder (PTSD). The Board found that McLean did not show that in-service stressors caused PTSD, and the Court of Appeals for Veterans Claims affirmed. McLean appeals to this court.

Under 38 U.S.C. § 7292, this court has limited jurisdiction over appeals from decisions of the CAVC. 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).

The Secretary moves to dismiss the appeal for lack of jurisdiction, asserting that McLean only argues that the Board failed to properly consider evidence related to his claim for PTSD. We agree. Because McLean challenges only evidence related to factual determinations regarding his claim for PTSD, and because we have no jurisdiction to review those findings, we must dismiss McLean's appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The Secretary's motion to dismiss is granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

DEC 16 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Thesolonia McLean
Jeffrey A. Regner, Esq.

s20

ISSUED AS A MANDATE: DEC 16 2009

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

DEC 16 2009

JAN HORBALY
CLERK