

NOTE: This disposition is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2007-7183

MICHAEL L. O'LEARY,

Claimant-Appellant,

v.

JAMES B. PEAKE, M.D., Secretary of Veterans Affairs,

Respondent-Appellee.

Kenneth M. Carpenter, Carpenter, Chartered, of Topeka, Kansas, argued for claimant-appellant.

Kenneth S. Kessler, Trial Attorney, Commercial Litigation Branch, Civil Division, United States Department of Justice, of Washington, DC, argued for respondent-appellee. With him on the brief were Jeanne E. Davidson, Director, and Mark A. Melnick, Assistant Director. Of counsel on the brief was Michael J. Timinski, Deputy Assistant General Counsel, Office of General Counsel, United States Department of Veterans Affairs, of Washington, DC.

Appealed from: United States Court of Appeals for Veterans Claims

Judge Alan G. Lance, Sr.

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JAMES B. PEAKE, M.D., Secretary of Veterans Affairs,

Respondent-Appellee.

## Judgment

ON APPEAL from the United States Court of Appeals for Veterans Claims

In CASE NO(S). 04-1722.

This CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

Per Curiam (RADER, SCHALL, Circuit Judges, and ZOBEL, District Judge\*).

**AFFIRMED.** See Fed. Cir. R. 36.

*ENTERED BY ORDER OF THE COURT*

DATED April 14, 2008

/ s / Jan Horbaly

*Jan Horbaly, Clerk*

\* Honorable Rya W. Zobel, District Judge, United States District Court for the District of Massachusetts, sitting by designation.