

NOTE: This disposition is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2009-7087

JOHN W. THROWER,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

John W. Thrower, of Little Rock, Arkansas, pro se.

Michael D. Snyder, Trial Attorney, Commercial Litigation Branch, Civil Division, United States Department of Justice, of Washington, DC, for respondent-appellee. With him on the brief were Tony West, Assistant Attorney General, Jeanne E. Davidson, Director, and Todd M. Hughes, Deputy Director. Of counsel on the brief was David J. Barrans, Deputy Assistant General Counsel, Office of the General Counsel, United States Department of Veterans Affairs, of Washington, DC.

Appealed from: United States Court of Appeals for Veterans Claims

Judge Lawrence B. Hagel

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ERIC K. SHINSEKI, Secretary of Veterans Affairs,

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Appeal from the United States Court of Appeals for Veterans Claims in  
07-1508, Judge Lawrence B. Hagel.

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DECIDED: October 9, 2009

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Before MICHEL, Chief Judge, FRIEDMAN, and GAJARSA, Circuit Judges.

PER CURIAM.

John W. Thrower appeals a decision of the United States Court of Appeals for Veterans Claims (“Veterans Court”), which affirmed a decision of the Board of Veteran’s Appeals (“Board”) that denied Mr. Thrower’s service-connected disability claims for a cardiac disability, sleep apnea, and headaches. See Thrower v. Shinseki, No. 07-1508, 2009 WL 361398 (Vet. App. Feb. 12, 2009) (“Veterans Court Decision”). We dismiss Mr. Thrower’s appeal for lack of jurisdiction.

## BACKGROUND

John W. Thrower served on active duty in the United States Army from December 1975 to March 1976, and again from January to March 1991. In April 2003, Mr. Thrower filed a disability claim with the Department of Veterans Affairs (“VA”) Regional Office (“RO”) for service connection relating to a cardiac disability, sleep apnea, and headaches. The RO denied Mr. Thrower’s claim, and he appealed to the Board. The Board conducted a videoconference hearing in November 2006, and denied Mr. Thrower’s claims for service connection. See In re Thrower, No. 04-26 087, 2007 WL 3229977 (Bd. Vet. App. Feb. 8, 2007) (“Board Decision”).

Mr. Thrower appealed to the Veterans Court, arguing that he had been denied the right to a hearing under 38 C.F.R. § 3.103(c), because the record of his November 2006 Board hearing was not clear and complete based on numerous statements that were reported as inaudible. The Veterans Court affirmed the Board decision, holding that 1) the purported error regarding the transcript of the Board hearing was not prejudicial; and 2) Mr. Thrower failed to request correction of the transcript or rehearing pursuant to 38 C.F.R. §§ 20.716 and 20.717(b)-(c).

Mr. Thrower timely filed this appeal.

## DISCUSSION

The scope of our review of a Veterans Court decision is limited by statute. See 38 U.S.C. § 7292. We may review a decision by the Veterans Court with respect to the validity of “any statute or regulation . . . or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the [Veterans] Court in making the decision.” 38 U.S.C. § 7292(a). Absent a constitutional issue, we may not

review challenges to factual determinations or challenges to the application of a law or regulation to facts. See 38 U.S.C. § 7292(d)(2).

Mr. Thrower does not raise any issue concerning validity or interpretation of any statute or regulation. He also does not raise any constitutional issue. Mr. Thrower appeals only factual determinations and the application of law to facts, both of which are not within this Court's jurisdiction. See id. Accordingly, we dismiss Mr. Thrower's appeal.

#### CONCLUSION

For the foregoing reasons, this appeal is dismissed for lack of jurisdiction.

No costs.