

NOTE: This disposition is nonprecedential.

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

EDWARD R. ANDREWS, JR.,
Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,
Respondent-Appellee.

2013-7065

Appeal from the United States Court of Appeals for
Veterans Claims in No. 11-2586, Chief Judge Bruce E.
Kasold.

Decided: February 4, 2014

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

MICHAEL P. GOODMAN, Trial Attorney, Commercial
Litigation Branch, Civil Division, United States Depart-
ment of Justice, of Washington, DC, argued for respond-
ent-appellee. With him on the brief were STUART F.
DELERY, Acting Assistant Attorney General, JEANNE E.
DAVIDSON, Director, and MARTIN F. HOCKEY, JR., Assis-
tant Director. Of counsel on the brief were MICHAEL J.
TIMINSKI, Deputy Assistant General Counsel, and

RACHAEL T. BRANT, Attorney, United States Department of Veterans Affairs, of Washington, DC.

Before NEWMAN, DYK, and MOORE, *Circuit Judges*.

PER CURIAM.

We hold that, as a matter of law, Mr. Andrews raised a TDIU claim in his 1983 filing to the VA. The Veterans Court should remand the case to the Board for a determination as to whether the record in 1983 established TDIU. If it concludes that the record did not establish TDIU, the VA must explain what legal principle justifies reaching a different result on what appears to be a more favorable record in 1983 than was present when the VA awarded Mr. Andrews TDIU in 1991.¹

COSTS

Costs are awarded to Mr. Andrews.

VACATED AND REMANDED

¹ We note that the 1994 Rating Decision granting Mr. Andrews 100% disability for TDIU effective from 1991 explains that he had not worked for the previous year and worked only twenty hours per week at his self-employed lawn service for the four years preceding that date. J.A. 21–22. The 1983 Rating Decision discussed a medical opinion that Mr. Andrews' PTSD rendered him "unemployed if not unemployable." J.A. 14. It also noted that "[his] work history since leaving the service has been quite sporadic, and he has been unemployed for the past four years." J.A. 16.