

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-7121

RUSTICO MILAN,

Claimant-Appellant,

v.

ERIC K. SHINSEKI,
Secretary of Veterans Affairs,

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims in
06-0078, Judge Ronald M. Holdaway.

ON MOTION

Before PROST, Circuit Judge.

ORDER

The Secretary of Veterans Affairs moves to stay proceedings in this appeal pending the court's disposition in Henderson v. Shinseki, 2009-7006 (en banc). The Secretary states that Rustico Milan consents.

The Secretary asserts that the only issue presented in this case is that presented in Henderson, i.e., whether the 120-day period within an adversely affected party may file an appeal with the Court of Appeals for Veterans Claims is subject to equitable tolling. We agree that a stay of proceedings in this case is appropriate.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted. The Secretary is directed to notify this court within 21 days of the date the mandate has issued in Henderson concerning how he believes this appeal should proceed. Milan may also respond within that time.

(2) The clerk is authorized to grant future unopposed motions to stay proceedings in cases pending disposition of Henderson.

FOR THE COURT

AUG 31 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Marc D. Schifanelli, Esq.
Tara K. Hogan, Esq.
Rustico Milan

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

AUG 31 2009

**JAN HORBALY
CLERK**