

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-7135

THOMAS P. CHOTTA,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims in
08-11267, Judge Alan G. Lance, Sr.

ON MOTION

ORDER

Thomas P. Chotta moves without opposition to stay proceedings in this appeal pending the court's disposition in Snyder v. Shinseki, 2009-7102.

Chotta asserts that this case and Snyder involve the same issue, specifically whether the Secretary can meet his burden of establishing "substantial justification" under 28 U.S.C. § 2412 on the basis that the issue was one of first impression before the Board of Veterans' Appeals.

We note that oral argument in Snyder is currently set for February 2, 2010.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to stay is granted. Chotta is directed to inform the court within 30 days of the disposition of Snyder how he believes this appeal should proceed. The Secretary may also respond within that time.

(2) A copy of this order shall be transmitted to the merits panel assigned to hear Snyder, to inform the panel of this related appeal.

FOR THE COURT

JAN 08 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Kenneth M. Carpenter, Esq.
Steven M. Mager, Esq.

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

JAN 08 2010

JAN HORBALY
CLERK