

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-7001

DAVID A. SMITH

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs

Respondent-Appellee.

Appeal from the United States Court of Appeals for Veterans Claims in
09-0146, Judge Alan G. Lance, Sr.

ON MOTION

Before LINN, Circuit Judge.

ORDER

The Secretary of Veterans Affairs submits a status report in response to this court's December 11, 2009 order, and moves to summarily affirm the judgment of the United States Court of Appeals for Veterans Claims in light of this court's en banc decision in Henderson v. Shinseki, 589 F.3d 1201 (Fed. Cir. 2009).

The court deems it appropriate to continue the stay of proceedings in this case until the Supreme Court's final disposition of Henderson.

Accordingly,

IT IS ORDERED THAT:

(1) The Secretary's motion to summarily affirm is denied without prejudice to renewal.

(2) The stay of the briefing schedule remains in effect pending the Supreme Court's final disposition of Henderson. The parties are directed to inform this court,

within 14 days of the Supreme Court's final disposition of Henderson, concerning how they believe that this appeal should proceed.

FOR THE COURT

MAR 26 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Edward R. Reines, Esq.
Tara Hogan, Esq.

s20

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

MAR 26 2010

JAN HORBALY
CLERK