

NOTE: This order is nonprecedential.

# United States Court of Appeals for the Federal Circuit

2010-7002

ARNETT A. BRACY, III,

Claimant-Appellant,

v.

ERIC K. SHINSEKI, Secretary of Veterans Affairs,

Respondent-Appellee.

ON MOTION

Appeal from the United States Court of Appeals for Veterans Claims in  
09-1873.

Before MICHEL, Chief Judge, SCHALL and LINN, Circuit Judges.

PER CURIAM

## ORDER

The Secretary of Veterans Affairs moves to waive the requirements of Fed. Cir. R. 27(f) and dismiss this appeal for lack of jurisdiction.

Arnett A. Bracy, III sought review by the United States Court of Appeals for Veterans Claims of a Board of Veterans' Appeals decision denying Bracy's claim for an increased rating for a low back disability. The Board dismissed Bracy's appeal after he failed to pay the filing fee or file a declaration of financial hardship and for failure to respond to the Court of Appeals for Veterans Claims' show cause order. Bracy appealed to this court.

Under 38 U.S.C. § 7292, this court has limited jurisdiction over appeals from decisions of the CAVC. See Forshey v. Principi, 284 F.3d 1335, 1338 (Fed. Cir. 2002) (en banc). This court "may not review (A) a challenge to a factual determination, or (B)

a challenge to a law or regulation as applied to the facts of a particular case." 38 U.S.C. § 7292(d)(2).

In his informal brief, in response to the issue decided by the Court of Appeals for Veterans Claims, Bracy argues that he "always return[s] all of my paperwork." Bracy also argues that the Board erred in determining the facts related to his claim for an increased disability rating. These are factual issues, outside of this court's jurisdiction. Because Bracy fails to raise an issue within our jurisdiction, we must dismiss this appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The Secretary's motions are granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

DEC 17 2009

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Arnett A. Bracy, III  
Corrine A. Niosi, Esq.

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

DEC 17 2009

JAN HORBALY  
CLERK

ISSUED AS A MANDATE: DEC 17 2009