

NOTE: This order is nonprecedential.

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

FRANK J. KAKUK,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2010-7023

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 07-1126, Judge Alan G.
Lance, Sr.

ON MOTION

Before LOURIE, GAJARSA, and LINN, *Circuit Judges.*
PER CURIAM.

ORDER

The Secretary of Veterans Affairs moves without op-
position to vacate the decision of the United States Court
of Appeals for Veterans Claims and to direct that court to

remand to the Board of Veterans' Appeals with orders to remand to the Regional Office for further proceedings.

Kakuk sought service connection for Parkinson's Disease based upon, among other things, exposure to herbicides during his service in Vietnam. The Board denied service connection, finding insufficient evidence to establish a nexus between his disease and his service. The Court of Appeals for Veterans Claims affirmed. Kakuk appealed to this court.

This court granted the Secretary's motion to stay the briefing schedule pending the Department of Veterans Affairs' publication in the Federal Register of a final rule regarding presumptions of service connection based upon exposure to herbicides. Recently, the Department of Veterans Affairs published a final rule affording a presumption of service connection for Parkinson's Disease based upon exposure to herbicides. The Secretary now argues that the final rule "may provide Mr. Kakuk with the nexus currently lacking between his disability and his military service and may eliminate the need for this Court to address his arguments regarding prejudicial error and the adequacy of the medical exam." We agree.

Accordingly,

IT IS ORDERED THAT:

The motion is granted.

FOR THE COURT

FEB 09 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Richmond J. Brownson, Esq.
Meredyth Cohen Havasy, Esq.

Issued As A Mandate: FEB 09 2011

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

FEB 09 2011

JAN HORBALY
CLERK