

NOTE: This order is nonprecedential.

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

LARRY E. BELTON, SR.,
Claimant-Appellant,

v.

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

2010-7040

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 09-1441, Judge Mary J.
Schoelen.

ON MOTION

Before RADER, FRIEDMAN, and GAJARSA, *Circuit Judges.*
PER CURIAM.

O R D E R

Larry E. Belton, Sr. moves for reconsideration of the
court's April 7, 2010 order dismissing his appeal for
failure to file an opening brief.

On February 26, 2010, this court denied Belton's motion for leave to proceed in forma pauperis pursuant to the Prisoner Litigation Reform Act of 1995. The court also ordered that Belton's opening brief was due no later than March 28, 2010. The court did not receive a brief from Belton, and on April 7, 2010 the court dismissed Belton's appeal for failure to timely file a brief. Fed. Cir. R. 45(a) (clerk may dismiss an appeal for failure to follow the court's rules).

In his motion for reconsideration, Belton asserts without further support that he mailed a brief. However, the court did not receive a brief, and Belton has not established that this case should be reinstated. *See Julien v. Zeringue*, 864 F.2d 1572 (Fed.Cir.1989) (court may dismiss for failure to file a brief).

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

MAY 19 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Larry E. Belton, Sr.
Elizabeth A. Speck, Esq.

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

MAY 19 2010

JAN HORBALY
CLERK