

NOTE: This order is nonprecedential.

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

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**TOMMY JUSTICE,**  
*Claimant-Appellant,*

v.

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

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2011-7093

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Appeal from the United States Court of Appeals for  
Veterans Claims in case no. 09-2092, Judge Mary J.  
Schoelen.

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Before LOURIE, MOORE, and REYNA, *Circuit Judges.*

PER CURIAM.

**O R D E R**

The Secretary of Veterans Affairs moves to waive the requirements of Fed. Cir. R. 27(f) and to dismiss Tommy Justice's appeal from the United States Court of Appeals for Veterans Claims' judgment in *Justice v. Shinseki*, 09-2092, for lack of jurisdiction.

Justice sought review by the Court of Appeals for Veterans Claims of a Board of Veterans' Appeals decision

denying Justice's claim for an earlier effective date for service connection due to an anxiety disorder. In its decision, the Board determined that Justice was not entitled to an effective date prior to September 30, 2002, when he reopened his prior claim, and there was no evidence to support Justice's assertion that he never received a January 2000 Board decision denying service connection.

Under 38 U.S.C. § 7292, this court has limited jurisdiction over appeals from decisions of the Court of Appeals for Veterans Claims. 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, Justice only argues that the Board failed to properly consider the evidence in denying his claim for an earlier effective date for service connection. Because Justice 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. The appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

SEP 02 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Tommy Justice  
Tara K. Hogan, Esq.

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Issued As A Mandate: SEP 02 2011

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

SEP 02 2011

**JAN HORBALY**  
**CLERK**