

NOTE: This order is nonprecedential.

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

LARY E. GRIMES,
Claimant-Appellant,

v.

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

2011-7204

Appeal from the United States Court of Appeals for
Veterans Claims in case no. 10-1841, Judge William A.
Moorman.

ON MOTION

Before RADER, *Chief Judge*, GAJARSA and REYNA, *Circuit
Judges.*

PER CURIAM.

ORDER

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

of jurisdiction Lary Grimes' appeal from a decision of the United States Court of Appeals for Veterans Claims.

On June 1, 2010, Grimes filed an appeal with the Veterans Court seeking review of an order denying him entitlement to service connection for a psychiatric disability. He then moved for expedited proceedings, which the Veterans Court denied. The Veterans Court denied Grimes' motion for reconsideration regarding expediting. Grimes then appealed the Veterans Court's decision to this court.

The Secretary argues that this court lacks jurisdiction because the Court of Appeals for Veterans Claims decision was not final and does not meet the standards for appealability of nonfinal decisions set forth in *Williams v. Principi*, 275 F.3d 1361, 1363 (Fed. Cir. 2002). We agree.

This court generally does not review nonfinal decisions of the Court of Appeals for Veterans Claims. Departure from this rule is justified only if three conditions are fulfilled:

- (1) there must have been a clear and final decision of a legal issue that (a) is separate from the remand proceedings, (b) will directly govern the remand proceedings or, (c) if reversed by this court, would render the remand proceedings unnecessary; (2) the resolution of the legal issues must adversely affect the party seeking review; and, (3) there must be a substantial risk that the decision would not survive a remand, *i.e.*, that the remand proceeding may moot the issue.

Id. at 1364 (footnotes omitted).

Because the requirements of *Williams* are not satisfied, the renewed order is not sufficiently final for the purposes of our review. If the Court of Appeals for Veterans Claims issues an adverse final decision at a later

date, Grimes may thereafter appeal that decision to this court. Thus, we dismiss.

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

MAR 08 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Lary E. Grimes
Joshua A. Mandlebaum, Esq.

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Issued As A Mandate: MAR 08 2012

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

MAR 08 2012

JAN HORBALY
CLERK