NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

SETH HOOPER,
Claimant-Appellant

v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS,
Respondent-Appellee

2026-1406

Appeal from the United States Court of Appeals for Veterans Claims in No. 25-7695, Judge Coral Wong Pietsch.

Decided: September 14, 2026

SETH HOOPER, Ocean, NJ, pro se.

ERIC P. BRUSKIN, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for respondent-appellee. Also represented by MARTIN F. HOCKEY, JR., PATRICIA M. MCCARTHY, BRETT SHUMATE.

Before STOLL and STARK, *Circuit Judges*, and BARKER, *District Judge*.[1]

PER CURIAM.

Seth Hooper, proceeding pro se, appeals the decision of the United States Court of Appeals for Veterans Claims, dismissing Mr. Hooper's appeal of a remand order of the Board of Veterans' Appeals. For the reasons explained below, we affirm.

BACKGROUND

Mr. Hooper served on active duty with both the United States Navy and the United States Army at various times between 2000 and 2011. In August 2019, Mr. Hooper submitted a claim for entitlement to service connection for a dental condition for treatment purposes only. In October 2019, the VA denied entitlement to service connection for a dental condition for compensation purposes. In July 2022, the Board remanded the claim of entitlement to service connection for a dental condition for compensation purposes back to the VA. It noted also "that a claim of entitlement to service connection for a dental condition raises both the issue of service connection for compensation purposes and service connection for treatment purposes," and it accordingly referred the claim of entitlement to service connection for a dental condition for treatment purposes to the VA. Appx 10–11 (citation omitted).[2] In several decisions from January 2023 through January 2025, the VA continued to deny Mr. Hooper entitlement to service connection for a dental condition for compensation purposes

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[1] Honorable J. Campbell Barker, District Judge, United States District Court for the Eastern District of Texas, sitting by designation.

[2] "Appx" refers to the Appendix filed with the Appellant's Informal Brief. *See* ECF No. 9.

and to not address treatment, even though Mr. Hooper repeatedly reiterated that "he was only claiming entitlement to service connection for a dental condition for treatment purposes." Appx 11.

On September 16, 2025, the Board remanded the claim of entitlement to service connection for a dental condition for treatment purposes to the VA.[3] The Board determined that, "despite [Mr. Hooper's] statements and the Board's directive in the July 2022 decision, the [VA] ha[d] never referred [Mr. Hooper's] treatment claim to [the Veterans Health Administration (VHA)] for consideration of service connection for a dental disability for purposes of VA outpatient treatment purposes which is required under 38 C.F.R. §[] 17.161." Appx 12. The Board then remanded, "[r]efer[ring] the matter of entitlement to service connection for dental disability for treatment purposes to VHA for adjudication of eligibility under 38 C.F.R. § 17.161." Appx 13.

Mr. Hooper appealed the Board's remand order to the Veterans Court. Before the Veterans Court, Mr. Hooper clarified that his appeal pertained to "only the part of the [Board's] decision that remanded the matter of service connection for a dental disability for treatment purposes." Appx 2 (citation omitted). The Veterans Court, in evaluating its own jurisdiction, noted that "[a] Board remand is not a decision within the meaning of 38 U.S.C. §§ 7104(d)(2) and 7252(a) because a remand does not grant or deny relief." Appx 3 (citing *Kirkpatrick v. Nicholson*, 417 F.3d 1361, 1364–65 (Fed. Cir. 2005)). It further cited two of our recent decisions indicating that the Veterans Court could

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[3] The Board's September 16, 2025 decision also dismissed the appeal as to entitlement to service connection for a dental condition for compensation purposes, as the Board determined Mr. Hooper was not seeking such entitlement. Appx 11.

not "vacate a Board remand order and in lieu of the vacated remand, order the VA to issue benefits." Appx 3–4 (first citing *Wright v. Collins*, 157 F.4th 1379, 1381 (Fed. Cir. 2025); and then citing *Ravin v. McDonough*, 107 F.4th 1357, 1362 (Fed. Cir. 2024)). Accordingly, the Veterans Court determined it "lack[ed] jurisdiction over the September 16, 2025[] Board remand" and dismissed the appeal. Appx 4.

Mr. Hooper appeals the Veterans Court's dismissal. We have jurisdiction under 38 U.S.C. § 7292(c).

DISCUSSION

On appeal from the Veterans Court, this court "shall decide all relevant questions of law, including interpreting constitutional and statutory provisions." 38 U.S.C. § 7292(d)(1). But, absent a constitutional challenge, we cannot review challenges to the Veterans Court's factual determinations or the application of law to fact. *Id.* § 7292(d)(2). "[W]hether the Veterans Court properly dismissed [an] appeal[] is a question of law, which we review *de novo*." *Perciavalle v. Collins*, 171 F.4th 1364, 1368 (Fed. Cir. 2026) (citing *Andre v. Principi*, 301 F.3d 1354, 1358 (Fed. Cir. 2002)).

The Veterans Court has "exclusive jurisdiction to review decisions of the Board." 38 U.S.C. § 7252(a). "A 'decision' of the Board, for purposes of the Veterans Court's jurisdiction under section 7252, is the decision with respect to the benefit sought by the veteran: those benefits are either granted . . . , or they are denied." *Kirkpatrick*, 417 F.3d at 1364 (omission in original) (quoting *Maggitt v. West*, 202 F.3d 1370, 1376 (Fed. Cir. 2000)). If the Board has not rendered a decision on a claim, that claim is outside the Veterans Court's jurisdiction. *See id.* at 1364–66; *see also Ledford v. West*, 136 F.3d 776, 779 (Fed. Cir. 1998). A remand from the Board that "contains no order granting or denying relief" is not a "decision" by the Board. *Kirkpatrick*, 417 F.3d at 1364. Here, the only Board order

Mr. Hooper appealed to the Veterans Court was the Board's *remand* of Mr. Hooper's claim of entitlement to service connection for a dental condition for treatment purposes, which is not a "decision" that would place Mr. Hooper's appeal within the Veterans Court's appellate jurisdiction.

Mr. Hooper's arguments to the contrary are unpersuasive. He argues that "the record demonstrates that [the] VA has not complied" with its procedural obligations under 38 C.F.R. § 3.103, and he points to the VA's failure to comply with the Board's "multiple remand directives." Appellant's Inf. Br. 5. Even if we agreed the record reflected such noncompliance by the VA with its regulatory obligations, there has not been, as Mr. Hooper concedes, a "decision"—i.e., a grant or denial of benefits—by the Board here. *See* Appellant's Inf. Br. 8 ("[T]he record demonstrates that the claimant has been unable to obtain any valid merits determination within the framework established by regulation."). Mr. Hooper also attempts to distinguish *Kirkpatrick*, arguing "[i]t did not address a circumstance where the adjudicatory process itself becomes incapable of producing the predicate agency action required for lawful merits adjudication." Appellant's Inf. Reply Br. 10. Mr. Hooper's presented distinction is unavailing, as it does not change "[o]ur case law and section 7104(d)(2) [that] define a Board decision as including an order granting appropriate relief or denying relief." *Kirkpatrick*, 417 F.3d at 1364.

Further, Mr. Hooper presents a constitutional challenge, arguing that the "absence of any functioning pathway" to obtain a decision on the merits of his claim is a violation of the Due Process clause. Appellant's Inf. Br. 8–9.[4] While we recognize "that a veteran alleging a service-

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[4] The Secretary argues that because "the constitutional arguments Mr. Hooper raises in his informal brief

connected disability has a due process right to fair adjudication of his claim for benefits," *Cushman v. Shinseki*, 576 F.3d 1290, 1292 (Fed. Cir. 2009), and we are sympathetic to Mr. Hooper's frustration with the series of remands in his case, we cannot say the process of remands here, that continues to revive Mr. Hooper's claim, deprives Mr. Hooper of his right to "notice and a fair opportunity to be heard" in the adjudication of his claim. *Id.* at 1296.

CONCLUSION

We have considered Mr. Hooper's remaining arguments, including those in his citations of supplemental authority, *see* ECF Nos. 17, 19, 23–24, but find them unpersuasive.[5] For the foregoing reasons, we determine the Veterans Court correctly concluded that it lacked jurisdiction over Mr. Hooper's appeal. Accordingly, we affirm the Veterans Court's dismissal.

AFFIRMED

COSTS

No costs.

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are not the same constitutional arguments Mr. Hooper raised before the Veterans Court," he has waived these arguments. Appellee's Inf. Br. 10. We exercise our discretion to address the constitutional issue as presented by Mr. Hooper before us. *See Singleton v. Wulff*, 428 U.S. 106, 121 (1976) ("The matter of what questions may be taken up and resolved for the first time on appeal is one left primarily to the discretion of the courts of appeals, to be exercised on the facts of individual cases.").

[5] After the Secretary filed a response to Mr. Hooper's citations, ECF No. 25, Mr. Hooper moved for "an order to show cause why Appellee's counsel should not be sanctioned or directed to correct the record." ECF No. 26. For reasons consistent with this opinion, we deny the motion.