

UNITED STATES COURT OF VETERANS APPEALS

V P

MISC. NO. 7-94

50354
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10/16/94
(4 pp)

IN RE:

RULES 4(A) AND 25(B)

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Before NEBEKER, Chief Judge, and KRAMER, FARLEY,
MANKIN, HOLDAWAY, IVERS, and STEINBERG, Judges.

O R D E R

Pursuant to 38 U.S.C. S 7264(a) and consistent with 28 U.S.C. S 2071(b) and (e), the Court has determined that there is an immediate need for rules addressing the filing of a Notice of Appeal on its postmark date, as is provided for by Public Law No. 103-446, S 511 (1994), which applies to any Notice of Appeal mailed to this Court on or after November 2, 1994. It is by the Court, with Judge Steinberg dissenting,

ORDERED that Rule of Practice and Procedure 4(a) is amended, effective immediately, to read as follows:

(a) **Time for Appeal.** To obtain review by the Court of a Board decision, a person adversely affected by that decision must file a Notice of Appeal within 120 days after the date on which the Board mailed notice of the decision to the last known address of the appellant and the appellant's authorized representative, if any. A Notice of Appeal shall be deemed to be received:

(1) on the date of its legible postmark, affixed by the United States Postal Service (not including a postage-metered date imprint other than one affixed by the United States Postal Service) on the cover in which the Notice is posted, if the mailing-is properly addressed to the Court and is mailed, or

(2) on the date of its receipt by the Clerk, if it does not bear a legible postmark affixed by the United States Postal Service, or it is delivered or sent by means other than United States mail, including facsimile.

It is further

ORDERED that Rule of Practice and Procedure 25(b)(2) is amended, effective immediately, by adding, at the end, the sentence: But see Rule 4(a) concerning Notice of Appeal. It is further

ORDERED that Form 1 (Notice of Appeal) is amended, effective immediately, to read as shown on the attachment to this order.

Public comment on these amendments is invited. Such comment must be submitted to the Clerk of this Court at 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004-2950, by December 31, 1994.

DATED: MN a %994
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BY THE COURT:



FRANK Q. NEBEKER
Chief Judge

CERTIFICATE OF SERVICE

On _____ I a copy of this Notice of Appeal was (check one)

(Date)

[] mailed postage prepaid to

[] served personally on

General Counsel (027)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

I certify under penalty of perjury under the laws of the United
State:Q_9f America that the foregoing is..mmtrue_m and..mcmcr:bect.m_P _ .:--

Date

Signature (Appellant, Appellant's attorney, or representative)

INSTRUCTIONS

Send your completed Notice of Appeal (original only) by United
States mail to:

Clerk, US Court of Veterans Appeals
625 Indiana Avenue, NW, Suite 900
Washington, LX?. 20004-2950

It will be in time if it is properly addressed to the Court and
bears a legible postmark, affixed by the United States Postal
Service, with a date which is within 120 days after the mailing
date of the BVA decision that you wish to appeal. A postage-
metered date imprint other than one affixed by the United States
Postal Service does not qualify as such a postmark.

Send the filing-fee (\$50.00, by check or money order, payable to
"US Court of Veterans Appeals") with this Notice of Appeal. DO NOT
MAILCASH. If you are requesting waiver of the filing fee, attach
a completed Form 4 to the Notice of Appeal.

You may file your Notice of Appeal by delivery means other than
United States mail, including facsimile transmission to (202) Sol-
5848. If you elect another form of delivery or if you mail the
Notice of Appeal and it does not bear a legible postmark affixed by
the United States Postal Service, then the Notice of appeal must be
actually received by the Court within the 120-day time limit. If
you file by facsimile, the Clerk must receive the \$50.00 filing fee
or a completed Form 4 within 14 days after you sent the facsimile
Notice of Appeal.

UNITED STATES, COURT OF VETERANS APPEALS
Notice of Appeal

_____,)
Appellant,
v. i VA File No. _____
JESSE BROWN, 1
Secretary of Veterans Affairs, ;
Appellee. 1

Notice is hereby given that _____
Appellant, appeals to the U-S. Court of Veterans Appeals from the
decision of the Board of Veterans' Appeals (BVA).

Information about the BVA decision being appealed:

- a. Date of filing of Notice of Disagreement which led to BVA decision being appealed: _____
- b. Location of VA Regional Office or other VA activity where Notice of Disagreement was filed:

- c. Date of BVA decision: _____

NOTICE OF APPEAL FILED BY: [] Appellant's attorney
[] Appellant [] Appellant's representative
[] This is a limited appearance, for the filing of this notice ONLY.

Signature of Appellant Signature of attorney or representative (if applicable)

Printed name Printed name

Address Address

Telephone Telephone

Bar # and Jurisdiction (if applicable)

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