UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 99-106

RAYMOND GALLEGOS, APPELLANT,

V.

ANTHONY J. PRINCIPI,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before KRAMER, *Chief Judge*, and FARLEY and STEINBERG, *Judges.*

O R D E R

In an August 11, 2000, opinion, this Court reversed a December 1998 Board of Veterans' Appeals (Board or BVA) decision denying an earlier effective date (EED) for an October 1997 award of Department of Veterans Affairs (VA) service connection for the appellant's post-traumatic stress disorder (PTSD). *Gallegos v. Gober*, 14 Vet.App. 50, 51 (2000). The basis for the Court's action was its reversal of the Board's determinations (1) that the appellant had not filed a Notice of Disagreement (NOD) as to a 1994 decision of a VA regional office that had denied the appellant's August 1993 claim for VA service connection for his PTSD and (2) that, because that decision had thus become final and was not on appeal to the Board at the time of its December 1998 decision, an EED based on the August 1993 claim could not lawfully be awarded. *Id.* at 51-52, 58. The Court held that "insofar as [38 C.F.R.] § 20.201 [(1999)] may be interpreted as adding a requirement of an expression of a desire for ***BVA*** review, we hereby invalidate it"; concluded that an October 1994 letter from the appellant's representative, the Disabled American Veterans (DAV), constituted an NOD; and remanded the matter for proceedings consistent with the Court's opinion. *Id*. at 57-58.

The Secretary subsequently appealed to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). On March 15, 2002, the Federal Circuit reversed this Court's decision; the Federal Circuit held that this Court had "erred when it invalidated [38 C.F.R.] § 20.201 [(1999)] with regard to the requirement that an NOD contain 'terms that can be reasonably construed as . . . a desire for appellate review'", and remanded for this Court to determine the question "whether Mr. Gallegos's 1994 DAV letter constitutes a valid NOD under § 20.201". *Gallegos v. Principi*, 283 F.3d 1309, 1315 (Fed. Cir. 2002).

On consideration of the foregoing, it is

ORDERED that, not later than 30 days after the date of this order, the appellant file, and serve on the Secretary, a supplemental brief on the above NOD question in light of the Federal Circuit's opinion. The amicus curiae in the appeal to the Federal Circuit may also file a supplemental brief within the time afforded the appellant. It is further

ORDERED that the Secretary, not later than 20 days after service of the appellant's supplemental brief, file, and serve on the appellant, a supplemental response.

DATED: July 12, 2002 PER CURIAM.