

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

No. 02-080

EDWARD R. HACKETT, APPELLANT,

v.

R. JAMES NICHOLSON,  
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before GREENE, KASOLD, and HAGEL, *Judges*.

**ORDER**

Before the Court is a January 18, 2005, joint motion by the parties to withdraw a December 8, 2004, joint motion for remand. On January 18, 2005, the parties also filed a joint motion for an order vacating the January 7, 2002, decision of the Board of Veterans' Appeals (Board) that declined to reopen Mr. Hackett's claim for service connection for retinitis pigmentosa. The parties contend that remand is required because the Board failed, under *Quartuccio v. Principi*, 16 Vet.App. 183, 186-87 (2002), and *Charles v. Principi*, 16 Vet.App. 370, 373-74 (2002), to ensure compliance with the notice requirements of 38 U.S.C. § 5103(a). Furthermore, the parties maintain that on remand the Board should consider the application of the presumption of soundness under 38 U.S.C. § 1111 and *Wagner v. Principi*, 370 F.3d 1089 (Fed. Cir. 2004), to Mr. Hackett's claim. Based on the parties' agreement and the record on appeal, the Court agrees.

Upon consideration of the foregoing, it is

ORDERED that the January 18, 2005, joint motion by the parties to withdraw a December 8, 2004, joint motion for remand is granted. It is further

ORDERED that the January 18, 2005, joint motion for an order vacating the January 7, 2002, Board decision that denied Mr. Hackett's claim to reopen his previously disallowed claim for service connection for retinitis pigmentosa is granted. The January 7, 2002, Board decision is VACATED and the matter is REMANDED for readjudication to correct the errors identified in the joint motion. Under Rule 41(b) of the Court's Rules of Practice and Procedure, this order is the mandate of the Court.

DATED: March 16, 2005

PER CURIAM.