

UNITED STATES COURT OF VETERANS APPEALS

No. 91-1366

RAYMOND V. TOBLER, APPELLANT,

v.

EDWARD J. DERWINSKI,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

On Appellee's Motion For Reconsideration or,
in the Alternative, for Review *en Banc*

Before FARLEY, MANKIN, and IVERS, Associate Judges.

ORDER

On October 28, 1991, this Court filed a decision in this case granting appellant's motion for summary reversal of the May 16, 1991, decision of the Board of Veterans' Appeals (BVA) and remanding the matter because the BVA had expressly refrained from considering the application of a decision of this Court in *Fugere v. Derwinski*, U.S. Vet. App. No. 89-72 (Dec. 27, 1990), appeal filed (Fed. Cir. Apr. 4, 1991).

On November 12, 1991, the Secretary of Veterans Affairs filed appellee's motion for reconsideration or, in the alternative, for review *en banc*. The basis of the Secretary's motion was that, in the Secretary's view, the Court's October 28, 1991, decision "involved a significant error of law". Motion at 1.

On consideration of the foregoing, it is

ORDERED that appellee's motion for reconsideration is granted; it is further

ORDERED that appellee's alternative motion for review *en banc* is denied as moot; and it is further

ORDERED that the decision of this Court in this case dated October 28, 1991, is hereby vacated by the Court, *sua sponte*, and replaced by a decision filed this date.

DATED:

PER CURIAM.

Copies to: