

**DESIGNATED FOR PUBLICATION**  
**UNITED STATES COURT OF VETERANS APPEALS**

No. 91-107

FRANCES B. LOWE,

Appellant,

v.

VA File No. 12 885 073

EDWARD J. DERWINSKI,  
Secretary of Veterans Affairs,

Appellee.

Before FARLEY, MANKIN, and STEINBERG\*, Associate Judges.

**O R D E R**

On June 19, 1992, in a single-judge memorandum decision, the Court reversed the November 29, 1990, decision of the Board of Veterans' Appeals (BVA). On July 13, 1992, the Secretary of Veterans Affairs (Secretary) filed a motion for reconsideration or for review by a three-judge panel of the single-judge decision or, in the alternative, to vacate or modify the memorandum decision and to stay proceedings. The Secretary argues that "the Court impermissibly substituted its judgment for that of the BVA in assessing and weighing the evidence of record, and in reconciling conflicting medical evidence." Secretary's Motion at 2.

The Secretary misreads or misunderstands the memorandum decision; there is no conflicting medical evidence. As the memorandum decision specifically noted, "all of the pertinent evidence of record supports [the] veteran's claim for service connection". *Lowe v. Derwinski*, \_\_ Vet.App.\_\_, \_\_ slip op. at 4 (U.S. Vet. App. June 19, 1992).

Upon consideration of the Secretary's motion for reconsideration or review by a panel, it is by the single Judge (original Judge marked with an \*)

ORDERED that the Secretary's motion for reconsideration is denied. It is by the panel

ORDERED that the Secretary's motion for review by a panel is denied. It is further

ORDERED that the Secretary's alternative motion to vacate or modify the memorandum decision and to stay proceedings is denied.

DATED: September 8, 1992

PER CURIAM.

MANKIN, *Associate Judge*, concurring: I concur in the per curiam denial of the Secretary's motion for review. I must note, however, that my concurrence should not be construed as approving the retention of jurisdiction by the Court over this appeal.

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