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Desmond C. Davis, Appellant 92-1096
v.
Jesse Brown, Secretary of Veterans Affairs, Appellee

United States Court of Veterans Appeals.

April 26, 1994

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

ORDER

PER CURIAM.

On March 18, 1994, a majority of the en banc Court voted to deny appellant's motion for review, and judgment was entered. On March 25, 1994, appellant, based on the Court's recent decision in TRAMMELL v. BROWN, 6 Vet.App. 181 (1994), moved to vacate the judgment here.

Upon consideration of the foregoing, it is

ORDERED that the judgement is recalled. It is further by the panel(*)

ORDERED that the Secretary, within 30 days after the date of this order, file with the Court and serve on appellant a response to appellant's motion. The response shall, in appropriate evidentiary form, inter alia, (1) state whether the Board of Veterans' Appeals (BVA) provided a copy of its April 29, 1992, decision to appellant's representative in accordance with the "flat mail" procedure described in the Ashworth affidavit filed in TRAMELL, 6 Vet.App. at 182; (2) as an evidentiary supplement to that affidavit, provide a detailed description of each step in that "flat mail" procedure between issuance of the VA decision and receipt of a copy by an appellant's representative (including (a) the extent to which employees or contractors of the Department of Veterans Affairs (VA) or the United States Postal Service are involved; (b) whether the decision copy is enclosed in any envelope or other container, and, if so, what destination designation, if any, is made on that container; (c) the precise process by which the decision copy is addressed and delivered to the representative; (d) any record of such delivery maintained at a VA regional office (RO); and (e) whether the "flat mail" process differs with regard to representatives who do not have offices located in a VARO building); and (3) advise the Court of the dates when use of "flat mail" became standard procedure for mailing BVA decisions and when, if ever, it ceased. It is further

ORDERED that appellant may, within 15 days after the date of service of the Secretary's response, file with the Court and serve on the Secretary a reply to that response.