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UNITED STATES COURT OF VETERANS APPEALS

No. 94-62

HUFFORD W. RIFE,
Petitioner/Appellant,

v.

VA File No. 26 283 460

JESSE BROWN,
Secretary of Veterans Affairs,

Respondent/Appellee.

Before KRAMER, HOLDAWAY, and STEINBERG, *Judges*.

ORDER

On April 13, 1994, the Court issued an order denying petitioner/appellant's writ of mandamus, and which, inter alia, (1) recalled the judgment and mandate entered subsequent to the issuance of the decision of December 30, 1992, in *Rife v. Principi*, No. 91-2065 (U.S. Vet. App.), (2) amended the decision to include, inter alia, the imposition of a deadline on the BVA with respect to its rendering a final adjudication, and the retention of jurisdiction by the Court, and (3) reentered judgment on the date of the order. On April 28, 1994, the Secretary filed a motion for panel review pursuant to Rule 35(b) of this Court's Rules of Practice and Procedure.

On consideration of the foregoing, it is

ORDERED that the Secretary's motion is denied on the basis that the Court's April 13, 1994, order is not the type of decision contemplated by Rule 35(b). U.S. Vet. App. R. 35(b); *cf. Bair v. Brown*, 6 Vet.App. 68, 69 (1993). It is further

ORDERED that the panel, sua sponte, withdraws the Court's April 13, 1994, order. It is further

ORDERED that the Secretary shall, and appellant may, within 30 days after the date of this order, file a brief addressing the following issues:

(1) The Court's power to impose timetables or deadlines on VA actions ordered on remand.

(2) Where the Court has not retained jurisdiction, the Court's power to recall judgment and/or mandate, modify or reissue the previous decisions or orders underlying such judgment and/or mandate, and to reenter judgment accordingly.

The Court invites any interested amicus curiae to file a brief not later than 30 days after the date of this order.

DATED: May 26, 1994

PER CURIAM.