

*Designated on August 30, 1996, for publication*

**UNITED STATES COURT OF VETERANS APPEALS**

No. 91-1053

DAVID KUO, APPELLANT,

v.

JESSE BROWN,  
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before FARLEY, MANKIN, and IVERS, *Judges*.

**ORDER**

On June 19, 1991, appellant filed a Notice of Appeal listing September 25, 1990, as the date on which he filed his Notice of Disagreement (NOD). On August 4, 1992, the Court issued an opinion denying the motion of the Secretary of Veterans Affairs (Secretary) for summary affirmance, vacating the decision of the Board of Veterans' Appeals (BVA), and remanding the matter. On August 18, 1992, the Secretary filed a motion to vacate the order and dismiss on the basis that the NOD was jurisdictionally invalid. Appellant, through his attorney, opposed the motion on the basis that appellant's September 25, 1990, correspondence had been filed in response to a new rating action by the Department of Veterans Affairs Regional Office (RO) after the BVA had remanded the case on April 30, 1990. The Court stayed the case pending a decision in *Hamilton v. Brown*, 4 Vet.App. 528 (1993).

The Court has jurisdiction only over cases in which an NOD was filed on or after November 18, 1988, *see* Veterans' Judicial Review Act, Pub. L. No. 100-687 § 402 (1988) (found at 38 U.S.C.A. § 7251 note (West 1991)). Although the record indicates that the BVA remanded appellant's claim for additional readjudication in April 1990, there can be only one valid NOD as to a particular claim until a final RO or BVA decision has been rendered in that matter, or the appeal has been withdrawn by the claimant. *Hamilton*, 4 Vet.App. at 538. The initial NOD in this appeal was filed prior to November 18, 1988. On consideration of the foregoing, it is

ORDERED that the stay in this case is dissolved. It is further

ORDERED that the Secretary's motion is granted, the Court's order of August 4, 1992, is vacated, and this appeal is dismissed for lack of jurisdiction.

DATED: August 4, 1993

PER CURIAM.