

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**ERNEST L. FRANCWAY, JR.,**  
*Claimant-Appellant*

v.

**ROBERT WILKIE, SECRETARY OF VETERANS  
AFFAIRS,**  
*Respondent-Appellee*

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2018-2136

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Appeal from the United States Court of Appeals for  
Veterans Claims in No. 16-3738, Judge Michael P. Allen,  
Judge Amanda L. Meredith, Judge Joseph L. Toth.

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**SUA SPONTE REHEARING EN BANC**

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Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK,  
MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN,  
HUGHES, and STOLL, *Circuit Judges*.

PER CURIAM.

**ORDER**

This case was argued before a panel of three judges on  
June 6, 2019. A sua sponte request for a poll on whether

to consider this case en banc was made. A poll was conducted, and the judges who are in regular active service voted for sua sponte en banc consideration.

Accordingly,

IT IS ORDERED THAT:

1. Rehearing en banc is granted for the limited purpose of deleting footnote 1 and accompanying text from the previous precedential opinion and replacing it with a new en banc footnote 1.
2. The previous precedential opinion, dated July 23, 2019, is hereby withdrawn and replaced with the modified precedential opinion attached to this order.

FOR THE COURT

October 15, 2019  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court