

NOTE: This order is nonprecedential.

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

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**JOE A. LYNCH,**  
*Claimant-Appellant*

v.

**DENIS MCDONOUGH, SECRETARY OF  
VETERANS AFFAIRS,**  
*Respondent-Appellee*

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2020-2067

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Appeal from the United States Court of Appeals for  
Veterans Claims in No. 19-3106, Senior Judge Mary J.  
Schoelen.

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**ON PETITION FOR REHEARING EN BANC**

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

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\* Circuit Judge Clevenger participated only in the  
decision on the petition for panel rehearing.

PER CURIAM.

**O R D E R**

Joe A. Lynch filed a petition for rehearing en banc. A response to the petition was invited by the court and filed by the Secretary of Veterans Affairs. The court also accepted an amicus brief filed by Military-Veterans Advocacy Inc. The petition was first referred as a petition for panel rehearing to the panel that heard the appeal, and thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service. A poll was requested and taken, and the court decided that the appeal warranted en banc consideration.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The petition for panel rehearing is denied.

(2) The petition for rehearing en banc is granted for the limited purpose of addressing *Ortiz v. Principi*, 274 F.3d 1361 (Fed. Cir. 2001).

(3) The panel's judgment and original opinion entered on June 3, 2021, are vacated and replaced with the accompanying revised opinion, concurrence-in-part and dissent-in-part, and judgment.

FOR THE COURT

December 17, 2021  
Date

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