

NOTE: This disposition is nonprecedential.

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

CHARLES E. CHASTAIN,
Claimant-Appellant,

v.

**Eric K. Shinseki, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2012-7136

Appeal from the United States Court of Appeals for
Veterans Claims in No. 10-1523, Chief Judge Bruce E.
Kasold.

Decided: May 22, 2013

TIMOTHY G. O'CONNELL, Bryan Cave, LLP, of St. Louis, Missouri, argued for claimant-appellant. With him on the brief was MARK B. LEADLOVE.

SCOTT D. AUSTIN, Trial Attorney, Commercial Litigation Branch, Civil Division, United States Department of Justice, of Washington, DC, argued for respondent-appellee. On the brief were STUART F. DELERY, Principal

Deputy Assistant Attorney General, JEANNE E. DAVIDSON, Director, MARTIN F. HOCKEY, JR., Assistant Director, and ALEX P. HONTOS, Trial Attorney. Of counsel on the brief were DAVID J. BARRANS, Deputy Assistant General Counsel, and CHRISTA A. SHRIBER, Staff Attorney, United States Department of Veterans Affairs, of Washington, DC. Of counsel was LARA EILHARDT.

Before LOURIE and PLAGER, *Circuit Judges*, and BENSON*,
District Judge.

PER CURIAM.

Charles E. Chastain (“Chastain”) appeals from the decision of the United States Court of Appeals for Veterans Claims (“Veterans Court”) denying his claim for an earlier effective date of service-connected lower-back disability. *Chastain v. Shinseki*, No. 10-1523, 2012 WL 1021491 (Vet. App. Mar. 28, 2012) (unpublished).

Although Chastain frames the issue on appeal as whether the Veterans Court correctly interpreted the law and applied the correct legal standard, in effect he disagrees with the application of the “clear and unmistakable error” standard of 38 U.S.C. § 5109A and 38 C.F.R. § 3.105(a) to the facts of his case. We do not have jurisdiction to review the Veterans Court’s application of the law to the facts unless it presents a constitutional issue, not presented here. 38 U.S.C. § 7292(d)(2); *Jackson v. Shinseki*, 587 F.3d 1106, 1109 (Fed. Cir. 2009); *cf. Livingston v. Derwinski*, 959 F.2d 224, 225 (Fed. Cir. 1992) (“[T]he mere recitation of a basis for jurisdiction by party or a court[] is not controlling; we must look to the true nature of the action.”).

* Honorable Dee V. Benson, United States District Court for the District of Utah, sitting by designation.

Accordingly, we dismiss Chastain's appeal for lack of jurisdiction.

DISMISSED

COSTS

No costs.