

NOTE: This order is nonprecedential.

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

NATHANIEL JAMES,
Claimant-Appellant,

v.

**ERIC K. SHINSEKI, SECRETARY OF VETERANS
AFFAIRS,**
Respondent-Appellee.

2013-7147

Appeal from the United States Court of Appeals for
Veterans Claims in No. 12-1574, Judge Alan G. Lance, Sr.

ON MOTION

Before MOORE, LINN and O'MALLEY, *Circuit Judges.*
LINN, *Circuit Judge.*

ORDER

Nathaniel James appeals from a decision of the United States Court of Appeals for Veterans Claims ("Veterans Court") denying his entitlement to an increased disability rating. The Secretary of Veterans Affairs ("Secretary") moves without opposition to remand the case

for additional proceedings consistent with *Nat'l Org. of Veterans' Advocates, Inc. v. Sec'y of Veterans Affairs*, 725 F.3d 1312 (Fed. Cir. 2013) ("*NOVA*").

In *NOVA*, this court approved a remedial plan offered by the Secretary to correct the application of an invalid rule eliminating veterans' procedural due process and appellate rights provided under 38 C.F.R. § 3.103(c)(2). As part of that plan, the Secretary agreed to identify and offer to remand cases affected by the invalid rule, such as the instant appeal, for purposes of providing claimants with a new hearing and an opportunity to submit new evidence followed by a new decision. In accordance with *NOVA*, this court grants the Secretary's unopposed motion for remand. Upon remand from this court and then from the Veterans Court to the Board of Veterans' Appeals ("Board"), the Secretary will provide James with the requisite notice and available remedies provided in the approved remedial plan.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted. The case is remanded to the Veterans Court with direction to remand the case to the Board for additional proceedings consistent with *NOVA* and this order.

(2) Each side shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court

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ISSUED AS MANDATE: December 20, 2013