

NOTE: This disposition is nonprecedential.

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

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**JOSEPH A. TAINA,**  
*Claimant-Appellant*

v.

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

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2017-1829

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Appeal from the United States Court of Appeals for  
Veterans Claims in No. 15-2017, Judge Mary J. Schoelen.

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Decided: April 10, 2019

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KENNETH M. CARPENTER, Law Offices of Carpenter  
Chartered, Topeka, KS, for claimant-appellant.

ERIC PETER BRUSKIN, Commercial Litigation Branch,  
Civil Division, United States Department of Justice, Wash-  
ington, DC, for respondent-appellee. Also represented by  
MARTIN F. HOCKEY, JR., ROBERT EDWARD KIRSCHMAN, JR.,  
JOSEPH H. HUNT; BRIAN D. GRIFFIN, DEREK SCADDEN, Of-  
fice of General Counsel, United States Department of Vet-  
erans Affairs, Washington, DC.

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Before O'MALLEY, TARANTO, and STOLL, *Circuit Judges*.

O'MALLEY, *Circuit Judge*.

This appeal was originally scheduled for oral argument on September 5, 2018. On August 17, 2018, however, we stayed this case pending an en banc decision in *Procopio v. Wilkie*, No. 18-1721. Once this court issued its decision in that case, *see Procopio v. Wilkie*, 913 F.3d 1371 (Fed. Cir. 2019), we ordered the parties to file supplemental briefs explaining how the decision in *Procopio* impacts this case. *See* Dkt. No. 38.

In his supplemental brief, Appellant Joseph Taina asked us to reverse the underlying Court of Appeals for Veterans Claims ("Veterans Court") decision and remand his case to be readjudicated consistent with *Procopio*. Dkt. No. 39. The government has also indicated that, in light of *Procopio*, we should remand this case to the Veterans Court. Dkt. No. 41; *see also* Dkt. Nos. 44, 45. The parties' requests for remand are now before us.

The decision of the Veterans Court is vacated and this appeal is remanded to the Veterans Court with instructions that Mr. Taina's claim for benefits be reconsidered in light of *Procopio*. The mandate shall issue forthwith.

**VACATED AND REMANDED**

**COSTS**

Each party shall bear its own costs.