

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 2017-1460

DEE FULCHER

v.

SECRETARY OF VETERANS AFFAIRS

DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent Secretary of Veterans Affairs

Party is (select one) Appellant/Petitioner Cross-Appellant
 Appellee/Respondent Intervenor

Tribunal appealed from and Case No. N/A

Date of Judgment/Order N/A Type of Case 38 U.S.C. § 502

Relief sought on appeal Dismiss or deny petition.

Relief awarded below (if damages, specify) None.

Briefly describe the judgment/order appealed from Petitioner requests the Court to compel the Department of Veterans Affairs (VA) to engage in rulemaking to amend VA's regulations as requested by petitioner.

Nature of judgment (select one)

- Final Judgment, 28 USC 1295
 Rule 54(b)
 Interlocutory Order (specify type) _____
 Other (explain; see Fed. Cir. R. 28(a)(5)) _____

Petitioner claims that VA denied the petition for rulemaking.

FORM 26. Docketing Statement

Form 26

Rev. 10/16

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued.
If none, please state none.

Brief statement of the issues to be raised on appeal _____

Whether the Court should dismiss or deny the petition for review.

Have there been discussions with other parties relating to settlement of this case? Yes No If "yes," when were the last such discussions?

- Before the case was filed below?
- During the pendency of the case below?
- Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated? Yes No

If they were mediated, by whom? _____

Do you believe that this case may be amenable to mediation? Yes No

Please explain why you believe the case is or is not amenable to mediation.

VA reviewed petitioner's request for rulemaking and indicated that it is exploring and will continue to explore, petitioner's suggested regulatory changes (i) to allow VA to perform gender alteration surgery and (ii) to the medical benefits package, when appropriated funding is available.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

N/A

I certify that I filed this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this

8th day of February, 2017

by: Operation of the Court's ECF System.

(manner of service)

Eric P. Bruskin /s/Eric P. Bruskin

Name of Counsel

Signature of Counsel

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