

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Misc. No. 3-99

IN RE:

PANEL REFERRALS IN PRO SE CASES

Before NEBEKER, *Chief Judge*, and KRAMER, FARLEY,
HOLDAWAY, IVERS, STEINBERG, and GREENE, *Judges*.

ORDER

It is sua sponte,

ORDERED that when a determination is made, under the Internal Operating Procedures, Part I(b)(5) or II(c) second paragraph, and *Frankel v. Derwinski*, 1 Vet.App. 23, 25-26 (1990), that a panel should be selected for consideration and disposition of an appeal or other matter in which the appellant is not represented, a clerk's order, designated for electronic publication only, will be entered stating that such a determination has been made and that the matter will be stayed for 30 days.

DATED: April 8, 1999

BY THE COURT:

FRANK Q. NEBEKER
Chief Judge

STEINBERG, *Judge*, concurring in part and dissenting in part: I agree with the order except for the explicit limitation to the two situations set forth in the Court's Internal Operating Procedures (where the screening judge decides to refer a case to a panel either initially after screening or at the request of two other judges after circulation of a proposed single-judge disposition). Rather, I believe that any determination that a case involving an unrepresented appellant is to be referred to a panel (or initially to the en banc Court, for that matter) should precipitate a notice order of the Court under this new procedure. This could also happen after the screening judge makes an initial screening determination for single-judge disposition (including after full Court circulation even though two judges do not request referral to a panel) or on a motion for a panel decision made by either party under Rule 35(b) of the Court's Rules of Practice and Procedure (Rules) after issuance of a single-judge disposition. Initial en banc review for a case involving an unrepresented appellant could occur based on the suggestion of a judge (if three others agree) or on the motion of a party under Rule 35(c)(1).