

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

MISC. NO. 10-11

IN RE: TIMELINESS OF APPEALS

ORDER

By order of the full Court:

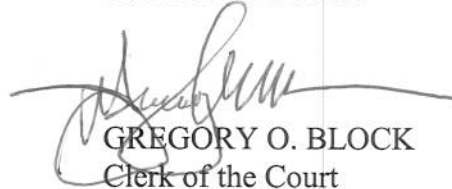
On March 1, 2011, the U.S. Supreme Court issued *Henderson v. Shinseki*, 131 S. Ct. 1197 (2011), which held that the 120-day deadline under 38 U.S.C. § 7266 for filing a Notice of Appeal (NOA) with this Court "does not have jurisdictional attributes" and therefore that the dismissal of an untimely appeal for lack of jurisdiction was improper. 131 S. Ct. at 1206. Although Mr. Henderson had argued before this Court that the 120-day deadline in section 7266(a) is subject to equitable tolling and that his failure to timely file his NOA should be excused under tolling principles, the parties did not ask the Supreme Court to address that issue and the Supreme Court, therefore, expressed no view on the question. *Id.* at 1206 n.4. In this regard, the Supreme Court further held that "[t]he 120-day limit is nevertheless an important procedural rule," the limitation of which is a question to be considered on remand. *Id.* at 1206. The Supreme Court remanded the case to the Federal Circuit, which remanded it to this Court for further proceedings consistent with the Supreme Court's decision.

This Court's disposition of the equitable tolling issue in *Henderson v. Shinseki*, No. 05-0090 (U.S. Vet. App. remanded from the U.S. Court of Appeals for the Federal Circuit Apr. 13, 2011), may have a direct bearing on the disposition of many cases pending before the Court. For the sake of judicial economy and efficiency, the Court will stay cases affected by the Supreme Court's *Henderson* decision until the Court has issued its decision in the remanded case.

THEREFORE, as ORDERED by this Court, the cases listed in the addendum to this order are stayed pending further order of the Court. If parties in cases not included in the addendum believe those cases should be stayed, they may file a proper motion requesting a stay.

DATED: June 24, 2011

FOR THE COURT:


GREGORY O. BLOCK
Clerk of the Court

Addendum

ADDENDUM TO MISC. NO. 10-11

Case Name and Number:

Alcendor v. Shinseki, No. 11-0719
Alexander v. Shinseki, No. 11-739
Baker v. Shinseki, No. 11-0600
Baligod v. Shinseki, No. 10-3035
Baniqued v. Shinseki, No. 10-4303
Barberree v. Shinseki, No. 11-0928
Beard v. Shinseki, No. 11-907
Beasley v. Shinseki, No. 11-0546
Beckley v. Shinseki, No. 10-3972
Beever v. Shinseki, No. 11-0979
Billow v. Shinseki, No. 11-999
Bond v. Shinseki, No. 11-0924
Booker v. Shinseki, No. 11-0345
Bowman v. Shinseki, No. 11-0055
Brand v. Shinseki, No. 11-0414
Bravo v. Shinseki, No. 11-0057
Bumatay v. Shinseki, No. 10-3345
Calloway v. Shinseki, No. 11-0230
Carpenter v. Shinseki, No. 10-1266
Casey v. Shinseki, No. 11-1507
Clausen v. Shinseki, No. 11-1058
Cleveland v. Shinseki, No. 10-3951
Colon-Franco v. Shinseki, No. 11-1445
Coppola v. Shinseki, No. 10-3984
Crom v. Shinseki, No. 11-0519
Crosby v. Shinseki, No. 09-0189
Darlington v. Shinseki, No. 11-0478
Davis v. Shinseki, No. 10-3997
Decuir v. Shinseki, No. 11-0998
Delos Santos v. Shinseki, No. 11-0632
Dilworth v. Shinseki, No. 11-1586
Divito v. Shinseki, No. 10-3200
Dixon v. Shinseki, No. 11-1219
Dotson v. Shinseki, No. 10-4326
Dotson v. Shinseki, No. 11-1365
Enriquez v. Shinseki, No. 11-1511
Evans v. Shinseki, No. 11-0633
Fabro v. Shinseki, No. 10-3927
Feller v. Shinseki, No. 10-3945

Case Name and Number:

Fleishman v. Shinseki, No. 11-521
Ford v. Shinseki, No. 11-0930
Frelow v. Shinseki, No. 10-3069
Garner v. Shinseki, No. 11-0352
Gist v. Shinseki, No. 11-0634
Golden v. Shinseki, No. 04-1385
Graham v. Shinseki, No. 11-0698
Granaas v. Shinseki, No. 11-0931
Gucaban v. Shinseki, No. 11-1096
Guerrero v. Shinseki, No. 10-4271
Halseth v. Shinseki, No. 05-3646
Henry v. Shinseki, No. 11-1307
Hickerson v. Shinseki, No. 11-0233
Higgins v. Shinseki, No. 11-0933
Hinojosa v. Shinseki, No. 10-258
Hodge v. Shinseki, No. 10-4000
Hoey v. Shinseki, No. 11-1041
Horne v. Shinseki, No. 09-2042
Howard v. Shinseki, No. 10-3140
Huddleston v. Shinseki, No. 10-3157
Huffman v. Shinseki, No. 11-0008
Jackson v. Shinseki, No. 11-1236
Jones v. Shinseki, No. 11-1552
Jones v. Shinseki, No. 11-1337
Kamatoy v. Shinseki, No. 10-3874
Kennedy v. Shinseki, No. 11-1463
King v. Shinseki, No. 10-2622
King v. Shinseki, No. 11-1217
Kneece v. Shinseki, No. 11-0199
Lane v. Shinseki, No. 10-2450
Lang v. Shinseki, No. 10-3976
Lazerano v. Shinseki, No. 08-3886
Lowery v. Shinseki, No. 11-737
Luckett v. Shinseki, No. 11-0974
Lynn v. Shinseki, No. 11-0404
Madden v. Shinseki, No. 11-1464
Marguglio v. Shinseki, No. 11-0833
Martin v. Shinseki, No. 11-375
Martin v. Shinseki, No. 11-0867

ADDENDUM TO MISC. NO. 10-11

Case Name and Number:

Matuskovic v. Shinseki, No. 11-1147
McDonald v. Shinseki, No. 10-2736
McPeake v. Shinseki, No. 10-3956
McPeake v. Shinseki, No. 10-3944
Mezzulo v. Shinseki, No. 10-2277
Miller v. Shinseki, No. 10-3688
Miner v. Shinseki, No. 11-1525
Molina v. Shinseki, No. 10-4217
Montgomery v. Shinseki, No. 11-0363
Morgan v. Shinseki, No. 11-282
Morris v. Shinseki, No. 11-1333
Nance v. Shinseki, No. 11-1323
Nascimento v. Shinseki, No. 10-4005
Nelson v. Shinseki, No. 10-3115
Newberry v. Shinseki, No. 10-2010
Nicholson v. Shinseki, No. 11-0067
Niemela v. Shinseki, No. 11-1515
Nottingham v. Shinseki, No. 11-1182
O'Connell v. Shinseki, No. 11-1216
Olmschenk v. Shinseki, No. 11-0405
Padilla v. Shinseki, No. 10-3803
Pearson v. Shinseki, No. 10-2326
Pelovello v. Shinseki, No. 10-2392
Peterson v. Shinseki, No. 07-1495
Pettaway v. Shinseki, No. 11-1044
Pfuntner v. Shinseki, No. 10-2239
Postell v. Shinseki, No. 10-3736
Quiles v. Shinseki, No. 11-1658
Rader v. Shinseki, No. 10-3978
Randle v. Shinseki, No. 10-4216
Randolph v. Shinseki, No. 10-4081
Rankin v. Shinseki, No. 10-4092
Raquidan v. Shinseki, No. 11-1516
Rasheed v. Shinseki, No. 09-3758
Reyes v. Shinseki, No. 11-1570
Rickett v. Shinseki, No. 09-2493
Rios v. Shinseki, No. 11-0836
Robbins v. Shinseki, No. 11-1100
Roberts v. Shinseki, No. 11-1408
Robinson v. Shinseki, No. 11-525
Rodems v. Shinseki, No. 10-3182

Case Name and Number:

Rodgers v. Shinseki, No. 11-0407
Rogers v. Shinseki, No. 10-3435
Ruiz-Soltero v. Shinseki, No. 11-1294
Seymore v. Shinseki, No. 10-3745
Shapiro v. Shinseki, No. 09-826
Shuler v. Shinseki, No. 11-1659
Sirmon v. Shinseki, No. 11-0088
Smith v. Shinseki, No. 11-650
Smith v. Shinseki, No. 09-146
Smith v. Shinseki, No. 11-1310
Smith v. Shinseki, No. 10-3852
Smith v. Shinseki, No. 10-3679
Soldevilla v. Shinseki, No. 10-3207
Stephens v. Shinseki, No. 11-0329
Stepp v. Shinseki, No. 11-0182
Stewart v. Shinseki, No. 10-3079
Strachan v. Shinseki, No. 11-20
Tackdol v. Shinseki, No. 10-3888
Taylor v. Shinseki, No. 11-0254
Thompson v. Shinseki, No. 10-3602
Thompson v. Shinseki, No. 11-0655
Thompson v. Shinseki, No. 10-4298
Thomson v. Shinseki, No. 10-3810
Toomer v. Shinseki, No. 09-4086
Traylor v. Shinseki, No. 11-0107
Tymes v. Shinseki, No. 10-3982
Vandeelen v. Shinseki, No. 11-1517
Vaow v. Shinseki, No. 11-0473
Vasquez v. Shinseki, No. 10-3983
Waterfield v. Shinseki, No. 11-0761
Weingarten v. Shinseki, No. 10-4334
Williams v. Shinseki, No. 11-1518
Williams v. Shinseki, No. 11-0411
Williams v. Shinseki, No. 11-0662
Wilson v. Shinseki, No. 11-1047
Wolfe v. Shinseki, No. 11-0962
Worley v. Shinseki, No. 11-1594
Wyrick v. Shinseki, No. 11-0185
Young v. Shinseki, No. 09-3216
Yu v. Shinseki, No. 11-1519