

UNITED STATES COURT OF VETERANS APPEALS

MISC. NO. 7-90

Before: Nebeker, Chief Judge, and Kramer, Farley, Mankin,
Holdaway, Ivers, and Steinberg, Associate Judges.

O R D E R

Pursuant to 38 U.S.C. § 4064(a) and 28 U.S.C. § 2071(e), the Court has determined that there is an immediate need for a rule governing the disclosure of certain records protected under 38 U.S.C. § 4132. It is

ORDERED, that a new Interim General Rule 48, as set forth below is hereby prescribed and is effective immediately. The Court invites all interested persons to submit written comment regarding this rule to the Clerk of the Court, 1625 K Street, NW, Suite 400, Washington, DC 20006 (effective November 13, 1990, at 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004) by December 14, 1990.

RULE 48
DISCLOSURE OF CERTAIN PROTECTED RECORDS

If, during the time periods set out in Interim General Rule 10 or at any other time during a proceeding before the Court, the parties identify records protected by 38 U.S.C. § 4132 and believe that disclosure of such records is required in such proceedings and, further, the parties cannot agree with respect to the disclosure of such records, the party requesting disclosure shall make immediate application, pursuant to 38 U.S.C. § 4132(b)(2)(D), caption the case "In re: Sealed Case No. [insert Court of Veterans Appeals case number]" (not disclosing the identity of any individual), and serve on the protected patient or subject or successor in interest a copy of the application. Such application shall include a statement specifying those steps taken by the parties to reach agreement before application was made to the Court. Upon receipt of such application, the Clerk, unless otherwise ordered by the Court, shall enter the case as withdrawn on the docket, assign a new case number and recaption the case using an encoded identifier, and seal the record on appeal and the file of the Court. Thereafter, any party or representative of a party, unless otherwise ordered by the Court, shall refer any subsequent filing only to the new case number and caption assigned by the Clerk.

DATED: NOVEMBER 2, 1990

FOR THE COURT:



ROBERT F. COMEAU
Clerk of the Court