

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 00-2351

GARY P. GADASH,

APPELLANT,

v.

ANTHONY J. PRINCIPI,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before KRAMER, *Chief Judge*, and HOLDAWAY and GREENE, *Judges*.

ORDER

On December 11, 2000, the appellant appealed through counsel an August 15, 2000, decision of the Board of Veterans' Appeals that remanded a claim for service connection for post-traumatic stress disorder. The Secretary filed a motion to dismiss for lack of jurisdiction, and the appellant responded. On February 9, 2001, the Court in a single-judge order dismissed this appeal for lack of jurisdiction. On February 26, 2001, the appellant filed a motion for reconsideration by a panel. In an April 3, 2001, order, this Court construed that motion as one for a panel decision and denied that construed motion.

On April 18, 2001, the appellant filed a motion for reconsideration of a panel decision purportedly pursuant to Rule 35(b) and (c) of this Court's Rules of Practice and Procedure (Rules). However, Rule 35(a) provides that "[a] party in a case decided by a panel may move for reconsideration by the panel." U.S. VET. APP. R. 35(a). A panel denial of a motion for a panel decision is not a "case decided by a panel." See U.S. VET. APP. R. 35(c) ("A party may move for decision by the full Court . . . (2) after a panel has decided a case, or (3) after a panel has denied a motion for panel decision . . ."). Rule 35(a) does not contemplate a motion for reconsideration by a panel after a panel has denied a motion for a panel decision. Nor do Rule 35 paragraphs (b) or (c) contemplate such a motion. Accordingly, the Court will direct the Clerk of the Court to return to the appellant his April 18, 2001, motion.

Upon consideration of the foregoing, it is

ORDERED that the appellant's April 18, 2001, motion for reconsideration is not accepted for filing. The Clerk of the Court is directed to return to the appellant his April 18, 2001, motion for reconsideration of the April 3, 2001, denial of a panel decision.

DATED: May 31, 2001

PER CURIAM.