

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Misc. No. 05-06

IN RE: BILATERAL TINNITUS CASES

ORDER

By order of the Court *en banc*:

The United States Court of Appeals for the Federal Circuit (Federal Circuit) on June 19, 2006, decided the appeal of veteran Ellis Smith, *Smith v. Nicholson*, No. 05-7168, 2006 U.S. App. LEXIS 14919 [hereinafter *Smith*]. In that decision, the Federal Circuit reversed and remanded this Court's decision in *Smith v. Nicholson*, 19 Vet.App. 63 (2005).

There are numerous cases pending in this Court involving the issue decided by the Federal Circuit in *Smith*. For the sake of judicial economy and efficiency, and based upon representations by the parties, this Court has decided to stay all bilateral tinnitus cases affected by the Federal Circuit's *Smith* opinion until the period for filing a petition of certiorari to the U.S. Supreme Court from the Federal Circuit's decision has passed or, if a petition is filed with the Supreme Court, until the Supreme Court has acted on the petition for certiorari, whichever period is longer.

The cases pending before this Court that involve the issue discussed above are identified in the addendum to this order. Despite this Court's best efforts to identify all pending bilateral tinnitus cases, there may be other such cases that have not been identified by this Court. Any case not identified will be stayed upon proper motion and order of this Court.

Therefore, as ordered by this Court, the cases listed in the addendum to this order are stayed until further order of this Court. Upon proper motion by the parties of any other case pending before this Court, which should also be stayed pending review of the *Smith* matter by the U.S. Supreme Court, the Clerk shall enter a separate order of stay in that case.

DATED: July 12, 2006

FOR THE COURT:

NORMAN Y. HERRING
Clerk of the Court

Addendum

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Case Name and Number:

Abbott v. Nicholson, No. 05-1659
Aceto v. Nicholson, No. 05-679
Andera v. Nicholson, No. 04-1331
Arcangeletti v. Nicholson, No. 05-810
Babin v. Nicholson, No. 05-762
Baker v. Nicholson, No. 05-1240
Barnett v. Nicholson, No. 05-739
Beason v. Nicholson, No. 05-1141
Boettge v. Nicholson, No. 04-1901
Campbell v. Nicholson, No. 05-2074
Campbell v. Nicholson, No. 05-1607
Cannon v. Nicholson, No. 05-1803
Carnahan v. Nicholson, No. 05-677
Carnes v. Nicholson, No. 05-1901
Cederlind v. Nicholson, No. 04-2187
Chomer v. Nicholson, No. 05-1381
Condon v. Nicholson, No. 05-1801
Connell v. Nicholson, No. 05-856
Cook v. Nicholson, No. 05-1790
Cook v. Nicholson, No. 05-1568
Dietz v. Nicholson, No. 05-518
Dotson v. Nicholson, No. 05-308
Flora v. Nicholson, No. 05-1783
Fontanna v. Nicholson, No. 05-1760
Fouts v. Nicholson, No. 05-1763
Furrow v. Nicholson, No. 05-1691
Galdi v. Nicholson, No. 05-1380
Gaynor v. Nicholson, No. 05-2730
Gibson v. Nicholson, No. 05-2073
Glasgow v. Nicholson, No. 05-1386
Gray v. Nicholson, No. 05-861
Gregoski v. Nicholson, No. 04-1441
Hayes v. Nicholson, No. 05-1239
Hecht v. Nicholson, No. 05-785
Hedge v. Nicholson, No. 04-2302
Hodge v. Nicholson, No. 05-1744
Jones v. Nicholson, No. 05-2017
Klen v. Nicholson, No. 04-2036
Lecher v. Nicholson, No. 04-2263
Lindke v. Nicholson, No. 05-34
Long v. Nicholson, No. 04-2291

Case Name and Number:

Manzo v. Nicholson, No. 05-1491
Martin v. Nicholson, No. 05-2072
Martinak v. Nicholson, No. 05-1195
McAlpine v. Nicholson, No. 05-1843
Meeker v. Nicholson, No. 05-1831
Mullis v. Nicholson, No. 05-1999
Nellans v. Nicholson, No. 05-2016
Nelson v. Nicholson, No. 05-1388
Nichols v. Nicholson, No. 05-1890
Owings v. Nicholson, No. 05-2013
Paige v. Nicholson, No. 04-1783
Palczewski v. Nicholson, No. 04-1001
Ringwald v. Nicholson, No. 05-1789
Rizzio v. Nicholson, No. 05-1142
Rogers v. Nicholson, No. 05-1479
Sallee v. Nicholson, No. 05-1526
Scott v. Nicholson, No. 05-1572
Spence v. Nicholson, No. 04-611
Stec v. Nicholson, No. 05-36
Stephenson v. Nicholson, No. 05-1539
Straub v. Nicholson, No. 05-912
Tarnow v. Nicholson, No. 05-1447
Tilton v. Nicholson, No. 04-1425
Toney v. Nicholson, No. 05-1743
Turner v. Nicholson, No. 05-1857
Ullery v. Nicholson, No. 05-1482
Wahy v. Nicholson, No. 04-2289
Walker v. Nicholson, No. 05-1288
Walton v. Nicholson, No. 05-1385
Winter v. Nicholson, No. 05-1099
Witt v. Nicholson, No. 04-1788