United States Department of Labor Employees' Compensation Appeals Board

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) **D.R.**, Appellant and **DEPARTMENT OF THE NAVY, NAVAL** MEDICAL CENTER PORTSMOUTH, Portsmouth, VA, Employer

Docket No. 23-0095 **Issued: March 23, 2023**

Case Submitted on the Record

Appearances: Appellant, pro se *Office of Solicitor*, for the Director

ORDER DISMISSING APPEAL

Before: PATRICIA H. FITZGERALD, Deputy Chief Judge JANICE B. ASKIN, Judge JAMES D. McGINLEY, Alternate Judge

On October 31, 2022 appellant sought an appeal from an October 26, 2022 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0095.

The Board, having duly considered the matter, notes that its jurisdiction is limited to the review of final adverse OWCP decisions issued under the Federal Employees' Compensation Act (FECA).¹ This jurisdiction encompasses any final decision issued by OWCP within 180 days of the date appellant filed his appeal.² The case record as transmitted to the Board does not contain a final adverse decision of OWCP issued within 180 days from the date of docketing of the current appeal. In the October 26, 2022 decision, OWCP's hearing representative vacated OWCP's July 21, 2022 decision and remanded the case to OWCP for further development of the factual and medical evidence, followed by a *de novo* decision. As such, this case is in an

¹ 5 U.S.C. § 8149; 20 C.F.R. §§ 501.2(c) and 501.3(a).

² *Id.* at § 501.3(e) provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP."

interlocutory posture.³ As there is no final adverse decision issued by OWCP within 180 days of the filing of this appeal,⁴ over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as Docket No. 23-0095 must be dismissed.⁵ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as Docket No. 23-0095 is dismissed.

Issued: March 23, 2023 Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge Employees' Compensation Appeals Board

Janice B. Askin, Judge Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge Employees' Compensation Appeals Board

³ See id. at § 501.2(c)(2), which provides: "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case."; see also L.F., Docket No. 21-0210 (issued April 27, 2022); *M.B.*, Docket No. 21-0127 (issued November 12, 2021); *T.D.*, Docket No. 19-1506 n.4 (issued November 4, 2020); *K.K.*, Docket No. 19-0652 (issued September 19, 2019).

⁴ *See supra* note 2.

 $^{^{5}}$ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).