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OPINION, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT (JUNE 9, 2026)

NOTE: This disposition is nonprecedential.

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

ISRAEL CANTU,

Claimant-Appellant,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,

Respondent-Appellee.

2026-1301

Appeal from the United States Court of Appeals for Veterans Claims in No. 25-5051, Chief Judge Michael P. Allen, Judge Margaret C. Bartley, Judge Scott Laurer.

Before: LOURIE, SCHALL, and TARANTO, Circuit Judges.

PER CURIAM.

Israel Cantu appeals from an order of the United States Court of Appeals for Veterans Claims ("the Veterans Court") dismissing his petition for a writ of

mandamus as moot. *Cantu v. Collins*, 2025 WL 2610186, at *1–2 (Vet. App. Sept. 10, 2025) ("*Decision*"). Because we lack jurisdiction over the appeal, we *dismiss*.

BACKGROUND

Cantu is a veteran who served in the United States Army from 2004 to 2009. S.A. 14.[1] In March 2024, the Board of Veterans' Appeals ("the Board") issued a decision denying Cantu an effective date before November 21, 2015 for awards of service connection for PTSD, left lower extremity radiculopathy, and a left long finger painful scar. S.A. 7–13. Cantu appealed to the Veterans Court, which vacated the Board's decision and remanded for further adjudication. S.A. 14–22.

As of June 2025, the Board had not adjudicated his claims for an effective date before November 21, 2015. *See* S.A. 1. Cantu accordingly filed a petition for extraordinary relief seeking a writ of mandamus to compel the Board to adjudicate the claims. *See* S.A. 1–2. In July 2025, the Board issued a decision denying an earlier effective date for the PTSD and left lower extremity radiculopathy claims and granting an earlier effective date for the left long finger painful scar claim. S.A. 23–37. Because the Board had "issued a decision" on the claims Cantu sought adjudication of in his petition, the Veterans Court dismissed the petition as moot. S.A. 1–2.

Cantu timely appealed.

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[1] "S.A" refers to the Supplemental Appendix attached to the Respondent's Informal Brief.

DISCUSSION

Our jurisdiction over decisions from the Veterans Court is limited by statute. *Wanless v. Shinseki*, 618 F.3d 1333, 1336 (Fed. Cir. 2010). We have exclusive jurisdiction to review any challenge to the Veterans Court's decision on the validity or interpretation of a statute or regulation. 38 U.S.C. § 7292(c). Except with respect to constitutional issues, we "may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case." *Id.* § 7292(d)(2). For appeals involving petitions for a writ of mandamus, we have jurisdiction only if there is a "non-frivolous legal question," and we cannot "review the factual merits of the veteran's claim" or address "application of veterans' benefits law to the particular facts of a veteran's case." *Beasley v. Shinseki*, 709 F.3d 1154, 1158 (Fed. Cir. 2013).

Cantu first argues that the Veterans Court erred in denying his petition as moot. Informal Open. Br. 1–2, Informal Reply Br. 4–5. We disagree. The relief sought in his petition—a decision from the Board on the effective date claims—was given to him in July 2025. S.A. 23–37. The petition is therefore "no longer live," rendering it moot. *L.A. County v. Davis*, 440 U.S. 625, 631 (1979) (cleaned up and citation omitted).

Second, while Cantu lists numerous statutes and regulations he believes were violated, Informal Open. Br. 1–2, none of those statutes or regulations were interpreted by or relied upon by the Veterans Court in denying his petition, nor does this case turn on the validity or interpretation of any of those statutes or regulations. *See generally Decision*. That argument does not create jurisdiction for this court over this

appeal. *See Smith v. Collins*, 130 F.4th 1337, 1343–44 (Fed. Cir. 2025) ("For us to address a legal question presented to us on appeal[,] . . . [t]he Veterans Court must have made a determination on the legal issue presented to us by the appellant, either making a decision on a rule of law or relying on a challenged statute or regulation or its interpretation.") (cleaned up); *see* 38 U.S.C. § 7292(a), (c).

To the extent that Cantu seeks to raise arguments concerning the merits of the Board's July 2025 decision, *see* Informal Reply Br. 1–16, a petition for a writ of mandamus "cannot be used as [a] substitute" for the ordinary appeal process. *Lamb v. Principi*, 284 F.3d 1378, 1384 (Fed. Cir. 2002) (quoting *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953)). Only the Veterans Court's dismissal of Cantu's petition is on appeal here.

Thus, because Cantu does not raise a non-frivolous legal question based on the Veterans Court's decision to deny his petition for mandamus, we lack jurisdiction over this appeal.

CONCLUSION

We have considered Cantu's remaining arguments and determine that none raise a non-frivolous legal question over which we can assert jurisdiction. For the foregoing reasons, we *dismiss*.

DISMISSED

JUDGMENT, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT (JUNE 9, 2026)

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

ISRAEL CANTU,

Claimant-Appellant,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,

Respondent-Appellee.

No. 2026-1301

Appeal from the United States Court of Appeals
for Veterans Claims in No. 25-5051,
Chief Judge Michael P. Allen,
Judge Margaret C. Bartley, Judge Scott Laurer.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

DISMISSED

FOR THE COURT

/s/ Jarrett B. Perlow
Clerk of Court

Date: June 9, 2026

ORDER, U.S. COURT OF APPEALS FOR VETERANS CLAIMS (OCTOBER 29, 2025)

Not published
NON-PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS

ISRAEL CANTU,

Petitioner,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,

Respondent.

No. 25-5051

Before: ALLEN, Chief Judge, and BARTLEY and LAURER, Judges.

ORDER

Note: Pursuant to US. Vet. App. R. 30(a), this action may not be cited as precedent.

In a September 10, 2025, single judge order, the Court denied a June 20, 2025, petition for extraordinary relief seeking a writ of mandamus to compel the Board of Veterans' Appeals to adjudicate three claims

for earlier effective dates that the Court remanded for readjudication in October 2024. On September 11, 2025, the petitioner timely filed a motion for reconsideration or, in the alternative, panel review. The motion for reconsideration by the single judge will be denied, and the motion for decision by a panel will be granted.

Based on review of the pleadings, it is the decision of the panel that the petitioner fails to demonstrate that (1) the single judge order overlooked or misunderstood a fact or point of law prejudicial to the outcome of the appeal, (2) there is conflict with a precedential decision of the Court, or (3) the petition otherwise raises an issue warranting a precedential decision. *See* U.S. VET. APP. R. 35(e); *see also Frankel v. Derwinski,* 1 Vet.App. 23, 25-26 (1990). The petitioner has not presented any argument that warrants consideration by the panel.

On October 3, 2025, the Court received, but did not file, petitioner's informal brief to the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). It appears from this document that petitioner seeks to appeal the denial of his petition to the Federal Circuit. However, he may not appeal the Court's order to the Federal Circuit until the Court issues judgment in this case. *See* U.S. VET. APP. R. 36(a).

On October 15, 2025, petitioner filed a self-styled "Rule 8 motion." Although the motion is unclear, petitioner appears to invoke Rule 8 of the Court's Rules of Practice and Procedure (Rules) to prevent issuance of the Court's final order in his case. But Rule 8 permits a party to request Court intervention as to VA Secretarial action being taken or anticipated to be taken at the agency level. Thus, petitioner's October

15 motion does not comport with Rule 8 and will be denied.

Absent further motion by the parties or order by the Court, judgment will enter on the underlying single judge order in accordance with Rules 35 and 36 of the Court's Rules.

Upon consideration of the foregoing, it is

ORDERED, by the single judge, that the motion for reconsideration is denied. It is further

ORDERED, by the panel, that the motion for panel decision is granted. It is further

ORDERED, by the panel, that the single judge order remains the decision of the Court. And it is

ORDERED, by the panel, that petitioner's self-styled Rule 8 motion is denied.

PER CURIAM.

Dated: October 29, 2025

Copies to:

Israel Cantu
VA General Counsel (027)

ORDER, U.S. COURT OF APPEALS FOR VETERANS CLAIMS (SEPTEMBER 10, 2025)

Designated for electronic publication only

UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS

ISRAEL CANTU,

Petitioner,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,

Respondent.

No. 25-5051

Before: Margaret BARTLEY, Judge.

ORDER

Note: Pursuant to US. Vet. App. R. 30(a), this action may not be cited as precedent.

On June 20, 2025, self-represented veteran Israel Cantu filed a petition for extraordinary relief seeking a writ of mandamus to compel the Board of Veterans' Appeals (Board) to adjudicate his claims for effective dates earlier than November 21, 2015, for post-traumatic stress disorder (PTSD), left lower extremity

radiculopathy, and a compensable disability evaluation for a painful left long finger scar, which the Court remanded in October 2024 for readjudication. Petition at 1; *see Cantu v. McDonough,* No. 24-1744, 2024 WL 4588723 (Vet. App. Oct. 28, 2024). According to Mr. Cantu, the Board had taken no action on the remanded claims, despite the requirement that appeals remanded by the Court are entitled to expedited treatment by the Board. *See* 38 U.S.C. § 7112(a); 38 C.F.R. § 20.902(d) (2025).

On July 23, 2025, the Court ordered the Secretary to respond to Mr. Cantu's petition. *See* U.S. VET. APP. R. 21(d). On August 21, 2025, the Secretary responded, arguing that the petition was moot because the Board on July 11, 2025, issued a decision regarding the claims remanded by the Court. Secretary's Response at 3-4 & Exhibit C. On August 27, 2025, Mr. Cantu filed a reply to the Secretary's response, arguing that the petition was not moot.

The Court agrees with the Secretary that Mr. Cantu's petition is moot. This Court adheres to the case or controversy jurisdictional requirements imposed by Article III of the U.S. Constitution. *Cardona v. Shinseki,* 26 Vet.App. 472, 474 (2014) (per curiam order); *Mokal v. Derwinski,* 1 Vet.App. 12, 13 (1990). In his petition, Mr. Cantu asserted that the Board had unreasonably delayed readjudicating the three earlier-effective-date claims remanded by the Court in October 2024. However, because the Board has now issued a decision on those claims, there remains no case or controversy regarding unreasonable delay and, therefore, the petition is moot.

Although Mr. Cantu argues that the petition is not moot, he fails, even under a liberal construction of

his reply, *see Calma v. Brown,* 9 Vet.App. 11, 15 (1996), to explain why a continuing case or controversy remains. To the extent that Mr. Cantu disagrees with the July 11, 2025, Board decision adjudicating those earlier-effective-date claims, he has appealed that decision to this Court and he may advance arguments regarding the merits of those claims in that appeal. *See Cantu v. Collins,* U.S. Vet. App. No. 25-5681 (notice of appeal filed July 14, 2025); *see also Lamb v. Principi,* 284 F.3d 1378, 1384 (Fed. Cir. 2022) ("'[E]xtraordinary writs cannot be used as a substitute for appeals.'" (quoting *Bankers Life & Cas. Co. v. Holland,* 346 U.S. 379, 383 (1953))).

Most of Mr. Cantu's reply refers to claims seeking higher evaluations for PTSD and left lower extremity radiculopathy that the Court remanded in March 2022. Petitioner's Reply at 2-3; *see Cantu v. McDonough,* No. 21-2298, 2022 WL 971558 (Vet. App. Mar. 31, 2022). But those claims were not part of the Court's October 2024 decision or Mr. Cantu's June 2025 petition based on unreasonable delay. Nevertheless, the Court notes that the Board issued a decision on the increased-evaluation claims in November 2022. *See* BD. VET. APP. 22062794, 2022 WL 18279407 (Nov. 9, 2022).

Upon consideration of the foregoing, it is

ORDERED that Mr. Cantu's June 20, 2025, petition for extraordinary relief is DISMISSED.

BY THE COURT:

/s/ Margaret Bartley
Judge

Dated: September 10, 2025

Copies to:

Israel Cantu
VA General Counsel (027)

ORDER,
BOARD OF VETERANS' APPEALS FOR THE SECRETARY OF VETERANS AFFAIRS
(JULY 11, 2025)

BOARD OF VETERANS' APPEALS
FOR THE SECRETARY OF VETERANS AFFAIRS

IN THE APPEAL OF

ISRAEL CANTU

Docket No. 22-00 546

Before: Christopher SEPPANEN,
Veterans Law Judge, Board of Veterans' Appeals.

ORDER

From November 21, 2014 to November 21, 2015, entitlement to a rating in excess of 30 percent for service-connected posttraumatic stress disorder ("PTSD") is denied.

From November 21, 2014 to November 21, 2015, entitlement to a compensable rating for service-connected radiculopathy of the sciatic nerve of the left lower extremity is denied.

From November 21, 2014 to November 21, 2015, entitlement to a rating of 10 percent for service-connected scar of the third middle finger of the left hand is granted.

FINDINGS OF FACT

1. From November 21, 2014 to November 21, 2015, the evidence of record does not demonstrate that the Veteran's PTSD warrants a disability rating in excess of 30 percent as the Veteran's symptoms consisted of no more than depressed mood, anxiety, insomnia, chronic sleep impairment, fatigue, irritability, and hypervigilance; as such, occupational and social impairment with reduced reliability and productivity was not shown.

2. From November 21, 2014 to November 21, 2015, the evidence of record shows that the Veteran's radiculopathy of the left lower extremity is not manifested by symptoms of incomplete paralysis of the sciatic nerve.

3. From November 21, 2014 to November 21, 2015, the Veteran's scar of the third middle finger of the left hand has resulted in no more than one painful scar.

CONCLUSIONS OF LAW

1. From November 21, 2014 to November 21, 2015, the criteria for a rating in excess of 30 percent for PTSD have not been met. 38 U.S.C. §§ 1155, 5107; 38 C.F.R. §§ 4.1, 4.2, 4.3, 4.7, 4.15, 4.130, Diagnostic Code 9411.

2. From November 21, 2014 to November 21, 2015, the criteria for an initial compensable rating for neuropathy of the left lower extremity have not been met. 38 U.S.C. §§ 1155, 5103, 5103A, 5107; 38 C.F.R. §§ 3.159, 4.1, 4.2, 4.3, 4.7, 4.10, 4.124a, Diagnostic Code 8520.

3. From November 21, 2014 to November 21, 2015, the criteria for a rating of 10 percent for service-connected scar of the third middle finger of the left hand have been met. 38 U.S.C. §§ 1155, 5107; 38 C.F.R. §§ 4.1, 4.2, 4.3, 4.7, 4.118, Diagnostic Code 7804.

REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

The Veteran had active military service from December 2004 to March 2009.

These matters come before the Board of Veterans' Appeals (Board) on appeal from April 2016 and July 2018 rating decisions by the Department of Veterans Affairs (VA) Regional Office (RO).

The Board notes that this case has an extensive procedural history. Most recently, in March 2021, the Board adjudicated the issues of entitlement to increased rating for PTSD, low back disability, radiculopathy of the left lower extremity, third middle finger of the left hand, scar on the third middle finger of the left hand, left knee disability, bilateral foot disability, bilateral hearing loss, and skin disability. The Board remanded the issues of entitlement to an earlier effective date for the award of service connection for tinnitus and entitlement to a total disability rating based on individual unemployability due to service connected disabilities (TDIU). During the appeal process, the Board denied the Veteran's earlier effective date claim for his tinnitus and entitlement to a TDIU in December 2023 and January 2022, respectively.

The Veteran appealed the March 2021 Board decision to the Court of Appeal for Veterans Claims (Court). In March 2022, the Court issued a memo-

randum decision and vacated the portions of the March 2021 Board decision that addressed increasing ratings claim for PTSD and radiculopathy of the left lower extremity, as well as entitlement to effective dates earlier than January 25, 2016 for the award of benefits for PTSD, radiculopathy of the left lower extremity, and scar on the left middle finger for VA to issue a statement of the case. In November 2022, the Board adjudicated the issues of increased ratings for PTSD and radiculopathy of the left lower extremity and remanded the issues of entitlement to an earlier effective date for the grant of service connection for PTSD, radiculopathy of the left lower extremity, and grant of increased rating for scar of the left middle finger.

In March 2024, the Board adjudicated the issues of entitlement to an earlier effective date for the grant of service connection for PTSD, radiculopathy of the left lower extremity, and scar of the left middle finger. The Veteran appealed the March 2024 Board decision. In October 2024, the Court determined that the Board erred and improperly characterized his disabilities as stemming from an initial claim rather than a claim for increased compensation. Essentially, the Court ordered that the Board consider whether the one-year lookback period is applicable. The issues are once again before the Board.

Increased Ratings

Disability evaluations are determined by the application of the facts presented to VA's Schedule for Rating Disabilities (Rating Schedule) at 38 C.F.R. Part 4. The percentage ratings contained in the Rating Schedule represent, as far as can be practicably

determined, the average impairment in earning capacity resulting from diseases and injuries incurred or aggravated during service and the residual conditions in civilian occupations. 38 U.S.C. § 1155; 38 C.F.R. §§ 3.321, 4.1.

In evaluating the severity of a particular disability, it is essential to consider its history. 38 C.F.R. § 4.1; *Peyton v. Derwinski,* 1 Vet. App. 282 (1991). Where entitlement to compensation has already been established and an increase in the disability rating is at issue, the present level of disability is of primary importance. *Francisco v. Brown,* 7 Vet. App. 55, 58 (1994). That being said, higher evaluations may be assigned for separate periods based on the facts found during the appeal period. *Hart v. Nicholson,* 21 Vet. App. 505, 509 (2007); *see also Fenderson v. West,* 12 Vet. App. 119, 126 (1999). This practice is known as staged ratings.

Where there is a question as to which of two evaluations shall be applied, the higher rating will be assigned if the disability picture more nearly approximates the criteria required for that evaluation. Otherwise, the lower rating will be assigned. 38 C.F.R. § 4.7.

1. From November 21, 2014 to November 21, 2015, entitlement to a rating in excess of 30 percent for service-connected PTSD is denied.

The Veteran's PTSD is rated under Diagnostic Code 9411.

When evaluating a mental disorder, the rating agency shall consider the frequency, severity, and duration of psychiatric symptoms, the length of remissions, and the Veteran's capacity for adjustment during

periods of remission. 38 C.F.R. § 4.126. The rating agency shall assign an evaluation based upon all the evidence of record that bears on occupational and social impairment, rather than solely upon the examiner's assessment of the level of disability at the moment of the examination. *Id.* When evaluating the level of disability from a mental disorder, the rating agency will consider the extent of social impairment but shall not assign an evaluation solely on the basis of social impairment. *Id.*

The Veteran's psychiatric disability is rated using the General Rating Formula for Mental Disorders (General Formula). 38 C.F.R. § 4.130, Diagnostic Code 9411.

Under the General Formula, a 30 percent rating is assigned for occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occasional tasks, due to such symptoms as: depressed mood, anxiety, suspiciousness, panic attacks (weekly or less often), chronic sleep impairment, and mild memory loss. *Id.*

A 50 percent rating is assigned for occupational and social impairment with reduced reliability and productivity due to such symptoms as flattened affect, circumstantial, circumlocutory or stereotyped speech, panic attacks more than once a week, difficulty in understanding complex commands, impairment of short-and long-term memory, impaired judgment, impaired abstract thinking, disturbances of motivation and mood, and difficulty in establishing and maintaining effective work and social relationships. *Id.*

A 70 percent rating is assigned for occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as: suicidal ideation; obsessional rituals which interfere with routine activities; speech intermittently illogical, obscure, or irrelevant; near-continuous panic or depression affecting the ability to function independently, appropriately and effectively; impaired impulse control (such as unprovoked irritability with periods of violence); spatial disorientation; neglect of personal appearance and hygiene; difficulty in adapting to stressful circumstances (including work or a work-like setting); and inability to establish and maintain effective relationships. *Id.*

A 100 percent rating is assigned for total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance or minimal personal hygiene); disorientation to time or place; and memory loss for names of close relatives and own occupation or name. *Id.*

The "such symptoms as" language means "for example," and does not represent an exhaustive list of symptoms that must be found before granting the rating of that category. *Mauerhan v. Principi,* 16 Vet. App. 436, 442 (2002). The list of examples provides guidance as to the severity of symptoms contemplated for each rating. *Id.* However, this fact does not make the provided list of symptoms irrelevant. *See Vasquez-Claudio v. Shinseki,* 713 F.3d 112, 116-17 (Fed. Cir.

2013). The Veteran must still demonstrate either the particular symptoms associated with the rating sought, or other symptoms of similar severity, frequency, and duration. *Id.* at 117.

As an initial matter, in an October 2024 Court memorandum decision, the Court determined that when the RO switched diagnostic codes for the Veteran's mental health disability (from insomnia to PTSD) it effectively discontinued the insomnia-only disability and established service connection for PTSD with insomnia. As such, his service connection claim for PTSD was actually an increased ratings claim for a psychiatric disability. Therefore, when the Veteran argued for an earlier effective date, the Board should have addressed whether the one-year lookback period applied.

Here, the Veteran filed an intent to file a claim in November 2015. When dealing with an increased rating claim, the appropriate period on appeal dates one year prior to the date of the Veteran's claim. *Hart v. Nicholson,* 21 Vet. App. 505, 509 (2007). As such, the issue before the Board is entitlement to an increased rating for the one year prior to the Veteran's claim for an increase.

Turning to the medical evidence, the Board notes that in November 2014 VA treatment record, the Veteran denied having any major issues. *See* April 2017 CAPRI. He denied going to an emergency room visits, or that he was hospitalized due to his psychiatric disability. He denied taking any medication or going to any psychiatric clinic. However, he complained of irritability and insomnia.

In a March 2015 VA examination, the Veteran endorsed having chronic sleep impairment and fatigue. On examination, he was oriented to person, place, and situation. His affect was in normal range. His verbal comprehension and speech were within normal limits. He was capable of managing his financial affairs. The examiner determined that the Veteran has occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or; symptoms controlled by medication.

In a May 2015 VA treatment record, he complained of having sleep disturbance, anxiety, depression, hypervigilance, and irritability. *See* January 2016 Medical Treatment Record — Government Facility. On examination, he was fully oriented. His speech was appropriate. He had an impaired memory function. His judgment was fair. He denied having delusions, hallucinations, grossly disorganized catatonic behavior, and disorganized thinking. In a June 2015 VA treatment record, he denied having any major issues. *See* April 2017 CAPRI. He affirmed that he had not taken any medication nor went to any psychiatric clinic. He endorsed having irritability and insomnia. An October 2015 VA treatment record noted that he was a sheriff in a small town.

Based on the evidence of record, from November 21, 2014 to November 21, 2015, the Veteran is shown to have no more than an occupational and social impairment with occasional decrease in work efficiency, consistent with a 30 percent disabling rating. As noted above, the Veteran complained of anxiety, depression, hypervigilance, irritability, insomnia,

chronic sleep impairment, and fatigue, but the mental status examinations did not note of any significant deficiencies to warrant a higher disabling rating as the Veteran did not exhibit circumstantial, circumlocutory or stereotyped speech, panic attacks more than once a week, difficulties understanding complex commands, deficiencies in short-term and long-term memory, impaired judgement, impaired abstract thinking, or difficulties in establishing and maintaining effective work and social relationships. As such, the Board finds that his PTSD is predominantly consistent with no more than a 30 percent rating.

The Board acknowledges the argument that the Veteran is entitled to a higher rating for his service-connected PTSD. However, the records do not support his stance. The Veteran was a sheriff in a small town which would require at least fair judgment and understanding of complex commands. It would also be reasonable to think that a sheriff is capable of forming relationships with his coworkers and staff, instruct and command personnel, and manage complex situations. Based on the foregoing, the Board finds that his psychiatric disability is consistent with a 30 percent rating from November 21, 2014 to November 21, 2015. Moreover, while he may claim that he has irritability, the mere presence of a symptom is not the determining factor of the assignment of a rating. It is the impact that the symptom has on the individual's functioning that decides the appropriate rating. While the Veteran reported irritability, he nevertheless demonstrated the capability of working as a sheriff that is responsible for the well-being of his small town.

Accordingly, the Board finds that the Veteran is not entitled to a rating in excess of 30 percent prior to November 21, 2015. Accordingly, the Veteran's claim for entitlement to a rating in excess of 30 percent prior to November 21, 2015 for his PTSD is denied. 38 C.F.R. §§ 4.7, 4.130 Diagnostic Code 9411.

2. From November 21, 2014 to November 21, 2015, entitlement to a 10 percent rating for service-connected radiculopathy of the sciatic nerve of the left lower extremity is denied.

The Veteran's radiculopathy of the left lower extremity is rated under Diagnostic Code 8520.

Diagnostic Code 8520 for polyneuropathy of the sciatic nerve provides that mild incomplete paralysis is rated 10 percent disabling. *See* 38 C.F.R. § 4.124a, Diagnostic Code 8520. A 20 percent rating is assigned for moderate incomplete paralysis. A 40 percent rating is assigned for moderately severe incomplete paralysis. A 60 percent rating is assigned for severe incomplete paralysis, with marked muscular atrophy. An 80 percent rating is assigned for complete paralysis.

As an initial matter, neither the Diagnostic Code nor the overall rating schedule defines "mild," "moderate," "moderately severe," or "severe." However, "mild" is generally defined as "gentle in nature or behavior," "not being or involving what is extreme," or "not severe." *Merriam-Webster's Collegiate Dictionary,* 1173 (11th ed. 2003). "Moderate" is defined as "tending toward the mean or average amount." *Id.* at 798. "Severe" is generally defined as "of a great degree." *Id.* at 1140. Therefore, "moderately severe" can be

defined as between "tending toward the mean or average amount" and "of a great degree."

Regulations provide that ratings for peripheral neurological disorders are to be assigned based on the relative impairment of motor function, trophic changes, or sensory disturbance. 38 C.F.R. § 4.120. Consideration is given for loss of reflexes, pain, and muscle atrophy. *See* 38 C.F.R. §§ 4.123, 4.124.

The term "incomplete paralysis" with this and other peripheral nerve injuries indicates a degree of lost or impaired function substantially less than the type pictured for complete paralysis given with each nerve, whether due to varied level of the nerve lesion or to partial regeneration. When the involvement is wholly sensory, the rating should be for the mild, or at most, the moderate degree. 38 C.F.R. § 4.124a.

As an initial matter, in an October 2024 Court memorandum decision, the Court determined that when assigning effective dates for neurological complications due to a back disability, as is the case herein, then the Board must consider the effective date provisions specifically for increases. Essentially stating that his service connection claim for radiculopathy should be construed as an increased ratings claim stemming from his back disability. Therefore, when the Veteran argued for an earlier effective date, the Board should have addressed whether the one-year lookback period applied. *Hart v. Nicholson,* 21 Vet. App. 505, 509 (2007). Here, the Veteran filed an intent to file a claim in November 2015. As such, the issue before the Board is entitlement to an increased rating for the one year prior to the Veteran's claim for an increase.

The Board finds that the most probative evidence of record establishes that there was no manifestation of radiculopathy of the left lower extremity from November 21, 2014 to November 21, 2015.

A review of the medical evidence of record shows that the records are sparse regarding his radiculopathy. However, the records show that he did not complain of any radiculopathy-related symptoms of the left lower extremity until his March 2016 VA examination. For instance, in November 2014, June 2015, and July 2016, the Veteran's neurological condition was unremarkable as he did not have any motor or sensory deficits, and his reflexes were normal. *See* February 2016 CAPRI and April 2017 CAPRI. Further, he did not complain of any radiculopathy-related symptoms.

Based on the evidence of record, the Board finds that the evidence weighs against assigning a rating of 10 percent prior to November 21, 2015 for his radiculopathy of the left lower extremity as he did not complain of radiculopathy-related symptoms of the left lower extremity and on examination he did not exhibit any numbness, pain, tingling sensation, or any other symptoms related to radiculopathy. As such, the Board finds that the evidence of record is against a finding that the Veteran had radiculopathy of the left lower extremity earlier than November 21, 2015. 38 C.F.R. §§ 4.3, 4.7, 4.124a, Diagnostic Code 8520.

3. From November 21, 2014 to November 21, 2015, entitlement to a rating of 10 percent for service-connected painful scar of the left hand middle finger is granted.

The Veteran's service-connected scar has been evaluated under Diagnostic Code 7804.

During the pendency of the appeal, the applicable rating criteria for scars were amended, effective August 13, 2018. VA's General Counsel has held that where a law or regulation changes during the pendency of a claim for a higher rating, the Board must first determine whether the revised version is more favorable to the Veteran. In so doing, it may be necessary for the Board to apply both the old and new versions of the regulation.

The Board notes that the skin regulations were amended effective August 13, 2018. However, these changes did not substantively alter the content of the diagnostic codes applicable to this claim.

Diagnostic Code 7804 provides a 10 percent rating for one or two unstable or painful scars. A 20 percent rating is warranted for three or four unstable or painful scars. A 30 percent rating is warranted for five or more unstable or painful scars. 38 C.F.R. § 4.118, Diagnostic Code 7804.

At the outset, the Veteran filed an intent to file a claim for his service-connected scars in November 2015. When dealing with an increased rating claim, the appropriate period on appeal dates one year prior to the date of the Veteran's claim. *Hart v. Nicholson,* 21 Vet. App. 505, 509 (2007). Here, the Veteran applied for an increased rating in November 2015. As such, the issue before the Board is entitlement to an increased rating in excess of 10 percent for the one year prior to the Veteran's claim for an increase.

The Board notes that the medical records are sparse regarding his scar for the appeal period. He was afforded a VA examination in March 2016 and May 2017.

In the March 2016 VA examination, the examiner noted that there were no scars of the trunk or extremities that are painful. There were no scars of the trunk or extremities unstable with frequent loss of covering of skin over the scar. There were no scars that are both painful and unstable. There were no scars of the trunk or extremities due to burns. He has a 3.5 centimeter (cm) by 0.5 cm linear scar on the dorsal aspect of the left middle finger.

In a May 2017 VA examination, the examiner noted that the Veteran has one mild painful scar over the left middle finger with palpation. Objective signs were facial flinching and withdrawal of hand. There was no unstable scar with frequent loss of covering of skin over the scar. His scar was measured 6.5 cm by 0.6 cm. The approximate total area of a deep non-linear scar is 3.3 square cm.

In a November 2019 VA examination, the Veteran stated that he has a painful scar, but not an unstable scar with frequent loss of covering of skin over the scar. He has a 1.5 cm by 0.3 cm scar of the left third digit with an approximate total area of 0.9 square cm.

Based on a review of the pertinent evidence, the Board concludes that, for the entire appeal period, the Veteran's scar on the left third finger was not of a size to warrant a rating in excess of 10 percent.

The Board has also considered the applicability of other potentially applicable diagnostic criteria for rating the Veteran's scars but finds that no higher rating is assignable under any other diagnostic code. To that end, Diagnostic Code 7800 contemplates scars of the head, face, or neck. 38 C.F.R. § 4.118, Diagnostic Code 7800. As his scars are located on his finger, a

compensable rating is not warranted under Diagnostic Code 7800.

Diagnostic Code 7801 provides that burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are deep and nonlinear in an area or areas of at least 6 square inches (39 sq. cm.), but less than 12 square inches (77 sq. cm.) will be assigned a 10 percent rating. 38 C.F.R. § 4.118, Diagnostic Code 7801. As documented in the above-noted VA examination report, there is no evidence that his scars cover an area of at least 6 square inches. Thus, Diagnostic Code 7801 is also inapplicable.

Diagnostic Code 7802 pertains to burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are superficial and nonlinear in an area or areas of 144 square inches (929 sq. cm.) or greater will be assigned a 10 percent rating. Note (1) indicates that a superficial scar is one not associated with underlying soft tissue damage. 38 C.F.R. § 4.118, Diagnostic Code 7802. In this case, his scar does not cover a surface area of 144 square inches or greater. There is no indication that his scar covers a surface area of 144 square inches. Therefore, a compensable rating is not available under Diagnostic Code 7802.

Diagnostic Code 7804 pertains to unstable or painful scars. One or two scars that are unstable or painful are rated at 10 percent disabling. Note (1) to Diagnostic Code 7804 provides that an unstable scar is one where, for any reason, there is frequent loss of covering of skin over the scar. 38 C.F.R. § 4.118, Diagnostic Code 7804. In this regard, he endorsed having one painful scar on his third finger of the left hand. The Board notes that the Veteran denied having a painful scar in the March 2016 VA examin-

ation. However, as his condition can wax and wane in severity, the Board finds that in the light most favorable to the Veteran that he has one painful scar since November 2014.

Therefore, based on the foregoing, the Board finds that the Veteran is entitled to a 10 percent rating for his service-connected scar as of November 21, 2014. In reaching this decision, the Board has considered the applicability of the benefit of the doubt doctrine. 38 U.S.C. § 5107. As detailed above, there is no evidence that the affected area is greater than 6 square inches or 144 square inches. However, as the Veteran has one painful scar, the Board finds that a 10 percent rating is warranted from November 21, 2014.

/s/ Christopher Seppanen
Veterans Law Judge
Board of Veterans' Appeals

Attorney for the Board P. Noh

The Board's decision in this case is binding only with respect to the instant matter decided. This decision is not precedential and does not establish VA policies or interpretations of general applicability. 38 C.F.R. § 20.1303.

ORDER DENYING PETITION FOR PANEL REHEARING, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT (JULY 2, 2026)

NOTE: This order is nonprecedential.

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

ISRAEL CANTU,

Claimant-Appellant,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,

Respondent-Appellee.

2026-1301

Appeal from the United States Court of Appeals for Veterans Claims in No. 25-5051, Chief Judge Michael P. Allen, Judge Margaret C. Bartley, Judge Scott Laurer.

Before: LOURIE, SCHALL, and TARANTO, Circuit Judges.

ON PETITION FOR PANEL REHEARING

PER CURIAM.

ORDER

On June 15, 2026, Israel Cantu filed a petition for panel rehearing [ECF No. 13].

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

FOR THE COURT

/s/ Jarrett B. Perlow
Clerk of Court

Date: July 2, 2026

Additional material from this filing is available in the Clerk's Office.