

UNITED STATES COURT OF VETERANS APPEALS

No. 95-59

ESDRAS S. TULINGAN,

APPELLANT,

v.

VA FILE NO. 5 531 842

JESSE BROWN,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before NEBEKER, *Chief Judge*, and KRAMER, FARLEY,
HOLDAWAY, IVERS, and STEINBERG, *Judges*.

ORDER

On October 24, 1996, a panel of the Court affirmed the Board of Veterans' Appeals decision on appeal. *Tulingan v. Brown*, 9 Vet.App. 484 (1996). On December 17, 1996, the Court granted the appellant's motion for an extension of time, until December 31, 1996, to file a motion for review en banc. On January 8, 1997, the appellant filed a motion for review by the Court en banc, out of time.

Upon consideration of the foregoing, the record on appeal, and the appellant's motion for review en banc, and it not appearing that review en banc is necessary either to address a question of exceptional importance to the administration of laws affecting veterans' benefits or to secure or maintain uniformity of the Court's decisions, it is

ORDERED that the motion for en banc review is accepted for filing as of the date of this order. It is further

ORDERED that the appellant's motion for review by the Court en banc is DENIED.

DATED: January 30, 1997 PER CURIAM.

STEINBERG, *Judge*, concurring: I do not believe that the criteria for en banc review are met despite my agreement with Judge Kramer's separate opinion that the Court reached an incorrect result (affirmance) in the majority opinion.

jnl/rev