

**IN THE UNITED STATES COURT
OF APPEALS FOR VETERANS CLAIMS**

DONALD A. DALLMAN,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 18-4075
)	
ROBERT L. WILKIE,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

APPELLANT’S NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to U.S. Vet. App. R. 30(b), Appellant DONALD A. DALLMAN hereby advises the Court of additional pertinent and significant authority the undersigned counsel has become aware of subsequent to his briefing in the instant appeal.

The additional authority consists of the United States Court of Appeals for the Federal Circuit’s precedential decision in *Jackson v. Principi*, 265 F.3d 1366 (Fed. Cir. 2001). Mr. Jackson sought reopening of a previous-denied claim of entitlement to service connection for a back disability. *Jackson*, 265 F.3d at 1368. The Regional Office granted reopening based upon the receipt of new and material evidence, but denied entitlement to service connection. *Id.* The Board determined that new and material evidence had *not* been submitted to VA, and denied entitlement to reopening. *Id.* Mr. Jackson averred that the Board lacked jurisdiction to deny entitlement to reopening, because he had not appealed this portion of the Regional Office’s decision. *Id.* at 1369.

The Circuit rejected this argument, and held that the Board must review *all* questions necessary to adjudication of entitlement to service connection for a previously-denied claim. *Id.* These questions include a “jurisdictional responsibility” to assess “whether it was proper for a claim to be reopened [...]” *Id.*

Jackson is pertinent to the arguments the Secretary advances in his Memorandum of Law in Response to the Court’s May 1, 2020, Order (“Secretary’s Memorandum”). The Secretary asserts that the Court lacks jurisdiction to review the Board’s determination that the December 1999 rating decision became final, because this question was not actually before the Board. *See* Secretary’s Memorandum at 1-5, 8. The Secretary argues that the Board did not have jurisdiction to adjudicate the finality of the December 1999 rating decision, because the Veteran did not file a Notice of Disagreement specifically regarding finality. *Id.* The Circuit’s decision in *Jackson* is pertinent because it held that the Board’s jurisdiction encompasses all questions necessary to adjudicate entitlement to service connection for a previously-denied claim, regardless of whether the Veteran had specifically addressed these questions in his appeal.

Respectfully submitted,

/s/ Ethan F. Maron
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