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

JOHN H. CHISHOLM, Appellant,	)
V.	) ) Vet. App. No. 19-1904
ROBERT L. WILKIE, Secretary of Veterans Affairs, Appellee.	) ) )

## JOINT MOTION FOR PARTIAL REMAND

Pursuant to U.S. Vet. App. R. 27 and 45(g), with regard to the November 21, 2018, Board of Veterans' Appeals (Board) decision (Record (R.) at 4-41 (Board decision)), to remand the issue of entitlement to a total disability rating based on individual unemployability due to service-connected disabilities (TDIU).<sup>1</sup>

## **BASIS FOR REMAND**

Remand is warranted because the Board erred when it failed to adjudicate the reasonably raised issue of TDIU. *Robinson v. Peake*, 21 Vet.App. 545, 553 (2008), *aff'd sub. nom. Robinson v. Shinseki*, 557 F.3d 1355 (Fed. Cir. 2009). Appellant testified that he was no longer working and that the symptoms from his post-traumatic stress, headaches, and left hand played a part in his inability to work. (R. at 67-69 (August 2018 Board hearing transcript at 21-23)). As Appellant has raised the issue, the Board is required to adjudicate the issue. *Roberson v. Principi*, 251 F.3d 1378, 1384 (Fed. Cir 2001).

## CONCLUSION

The parties thus move the Court to remand, consistent with the foregoing. On remand, Appellant shall be free to submit additional evidence and/or arguments in support of this claim, and the Board must consider any such argument or

<sup>&</sup>lt;sup>1</sup> The issues actually addressed in the Board's decision should remain undisturbed, to the extent that the Court has jurisdiction over them, *Kirkpatrick v. Nicholson*, 417 F.3d 1361 (Fed. Cir. 2005), and Appellant hereby waives any appeal therefrom. *Pederson v. McDonald*, 27 Vet.App. 276, 284-85 (2015) (en banc).

evidence submitted. *Kutscherousky v. West*, 12 Vet.App. 369, 372 (1999) (per curiam). "The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Board" of this claim. 38 U.S.C. § 7112. Finally, the Board shall incorporate copies of this motion and the Court's order granting it into Appellant's claims file.

Respectfully submitted,

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