

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

RONALD V. GARNER,	)	
Appellant,	)	
	)	
vs.	)	Vet. App. No. 18-5865
	)	
ROBERT L. WILKIE,	)	
Secretary of Veterans Affairs,	)	
Appellee.	)	

**APPELLANT’S UNOPPOSED MOTION  
FOR CLARIFICATION OF THE ISSUES**

The Court ordered that this case is submitted to panel, with oral argument scheduled on May 21, 2020. Pursuant to U.S. Vet. App. Rule 27, the Appellant hereby moves the Court for clarification as to whether there are particular issues the Court wishes counsel to address at oral argument.

Appellant’s brief asserts that the Board erred in several ways, to include:

- 1) relying on an examination that addresses only whether the service-connected condition aggravates the underlying physical causes of a second disability, without addressing whether the service-connected condition caused an increase in impairment of earning capacity, Appellant’s Br. at 10-12; and
- 2) failing to adjudicate the reasonably-raised theory of entitlement to secondary service connection with obesity as an intermediate step, Appellant’s Br. at 16-20.

The Secretary argues that the 2017 VA examination is adequate for adjudication purposes because the “[examiner] explicitly addressed aggravation by describing the symptoms of Appellant’s MDD and explaining why they do not aggravate his sleep apnea.” Secretary’s Br. at 7. He also avers that the Board did not err in not addressing the theory of entitlement to secondary service connection with obesity as an intermediate step and proffered that the Veteran “fail[ed] to point to any evidence” establishing that his service-connected conditions caused obesity. Secretary’s Br. at 13-14.

The Court’s referring this case to panel and argument evidences that it has determined it is not one of relative simplicity. *See Frankel v. Derwinski*, 1 Vet.App. 23, 25-26 (1990). In light of that, and the number of potential issues presented, Appellant believes that clarification of the issues would aid both parties in preparing for oral argument. Clarification of the issues would also assist the Court by seeking to ensure that both parties address the specific issues the Court considers most pertinent.

Therefore, Appellant respectfully moves the Court for clarification of the issue, or issues, to be addressed at oral argument. Counsel for Appellee was consulted and is unopposed to this motion.

/s/ Brittani Howell

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