

In reply refer to: **027F**

July 19, 2021

Mr. Gregory O. Block
Clerk of the Court
U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW
Washington, DC 20004

Re: **Lewis R. Page v. Denis McDonough, Vet. App. No 19-865**

Dear Mr. Block,

Pursuant to U.S. Vet. App. R. 30(b), Respondent, Denis McDonough, Secretary of Veterans Affairs, hereby advises the Court of additional pertinent and significant authority that has come to the attention of the undersigned counsel since the Secretary filed his brief in the above referenced case. This is submitted in advance of the oral argument scheduled for July 27, 2021, at 2:00 p.m.

Respondent informs the Court of *Euzebio v. McDonough*, 989 F.3d 1305 (Fed. Cir. 2021), and *Lang v. Wilkie*, 971 F.3d 1348 (Fed. Cir. 2020). In *Euzebio*, the Federal Circuit held, “The correct standard for constructive possession, as articulated in *Bell* and later *Lang*, and as applied throughout veterans benefit law, is relevance and reasonableness.” 989 F.3d at 1321 (citing *Lang*, 971 F.3d at 1353; *Bell v. Derwinski*, 2 Vet.App. 611, 612-13 (1992)). Additionally, the Federal Circuit discussed the Court’s authority to review extra-record evidence in the first instance. See *Euzebio*, 989 F.3d at 1322 (“Where, for example, the administrative record is ‘insufficient to permit meaningful judicial review,’ the reviewing court may consider ‘extra-record evidence.’” (quoting *Axiom Res. Mgmt., Inc. v. United States*, 564 F.3d 1374, 1381 (Fed. Cir. 2009))). This supplemental authority is submitted in furtherance of the argument presented in Appellant’s Opposed Motion to Amend the Record Before the Agency (RBA), and in furtherance of the arguments presented on pages 10 through 14 of Appellee’s Brief.

Respectfully submitted,

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