

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

JOSE F. RIVERA-COLON,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 19-6129
)	
DENIS MCDONOUGH,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

**MOTION FOR CLARIFICATION OF ISSUES
FOR ORAL ARGUMENT**

Appellant appealed a June 12, 2019, decision of the Board of Veterans' Appeals (Board) that, among other things, denied entitlement to a disability rating in excess of 10 percent for gastritis. Appellant filed his principal brief on April 15, 2021. The issue briefed by Appellant is whether the Board erred by failing to provide an adequate statement of reasons or bases in support of its decision where it failed to address whether referral for extraschedular consideration under 38 C.F.R. § 3.321(b)(1) was warranted. The Secretary responded that the Board provided an adequate statement of reasons or bases for its decision because Appellant failed to demonstrate that he raised the issue of extraschedular consideration explicitly or that it was reasonably raised by the record. The Court submitted the case to a panel for decision on July 30, 2021, and it scheduled oral argument for October 12, 2021.

The Secretary respectfully contends that clarification of the issue, or issues, of interest to the Court would aid the parties in preparing for oral argument. Clarification of the issues would also assist the Court by ensuring the parties are prepared to address the issue, or issues, the Court believes pertinent to the claims on appeal given the arguments presented in the parties' briefs. Thus, the Secretary respectfully requests the Court clarify the issue, or issues, of interest for oral argument.

Counsel for Appellant has been contacted and takes no position on this Motion.

WHEREFORE, the Secretary respectfully moves the Court for clarification of the issue, or issues, to be addressed at oral argument.

Respectfully submitted,

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General Counsel

MARY ANN FLYNN
Chief Counsel

Date: August 27, 2021

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