

Not published

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 19-6129

JOSE RIVERA-COLON,

APPELLANT,

v.

DENIS McDONOUGH,
SECRETARY OF VETERANS AFFAIRS,

APPELLEE.

Before BARTLEY, *Chief Judge*, and PIETSCH and LAURER, *Judges*.

ORDER

*Note: Pursuant to U.S. Vet. App. R. 30(a),
this action may not be cited as precedent.*

The veteran, Mr. Rivera-Colon, through counsel appeals a June 12, 2019, Board of Veterans' Appeals (Board) decision finding, among other things, that he was not entitled to an evaluation in excess of 10% for gastritis. On July 30, 2021, the appeal was referred to a panel of the Court for decision and oral argument is scheduled for October 12, 2021. On September 2, 2021, the Court ordered the parties to file supplemental memoranda of law addressing several issues not covered in the parties' briefs.

The parties filed their supplemental memoranda of law on September 21, 2021. In his memorandum, Mr. Rivera-Colon raises an additional argument, contending that the 2017 revision to 38 C.F.R. § 3.321(b)(1) places all authority over extraschedular evaluations with the Director of Compensation Service or his or her delegee, without review by the regional office (RO) or the Board, and that initial determinations or referrals from the RO or the Board are no longer contemplated.

The Court has determined that a response to this argument from the Secretary would aid in resolving this matter and will direct the Secretary to file a response, not to exceed 8 pages, no later than October 7, 2021.

Upon consideration of the foregoing, it is

ORDERED that, no later than October 7, 2021, the Secretary shall file a response, not to exceed 8 pages, to Mr. Rivera-Colon's argument.

DATED: September 29, 2021

PER CURIAM.

Copies to:

Javier A. Centonzio, Esq.

VA General Counsel (027)