



**Department of Veterans Affairs**  
**Office of General Counsel**  
**Washington DC 20420**

In reply refer to: 027E

January 12, 2022

The Honorable Gregory O. Block  
Clerk of the Court  
U.S. Court of Appeals for Veterans Claims  
625 Indiana Avenue, NW, Suite 900  
Washington, DC 20004

Re: ALLEN GUMPENBERGER v. DENIS MCDONOUGH, Secretary  
of Veterans Affairs, Vet. App. No. 20-4155

Dear Mr. Block:

Pursuant to U.S. Vet. App. R. 30(b), Appellee Denis McDonough, Secretary of Veterans Affairs, hereby advises and provides the Court with the following citation to additional pertinent and significant authority.

In *Jarvis v. West*, 12 Vet.App. 559 (1999), the Court addressed the validity of a notice of disagreement (NOD) concerning the rating assigned for service-connected schizophrenia. The Court held that “[i]n determining whether a written communication constitutes an NOD, the Court looks at both the actual wording of the communication and the context in which it was written.” *Jarvis*, 12 Vet.App. at 561. In evaluating whether the NOD expressed disagreement with the assigned rating for schizophrenia, the Court noted that “[t]he appellant’s NOD, his formal appeal to the Board, and the statement of the appellant’s representative before the Board, all address only, and very specifically, the effective date issue.” *Jarvis*, 12 Vet.App. at 562. As such the Court held that “no valid NOD has been filed with respect to” the assigned rating. *Id.*

The case cited above pertains to the Secretary’s June 10, 2021, Brief at pages 7-8, in which the Secretary asserted that a valid NOD must specifically identify the adjudicative determinations with which a claimant disagrees when the agency of original jurisdiction adjudicates several issues in the same decision, pursuant to 38 C.F.R. § 20.201 (2013) and *Ledford v. West*, 136 F.3d 776 (Fed. Cir. 1998).

Sincerely,

/s/ James L. Heiberg

James L. Heiberg  
Counsel for the Secretary