25-6065



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**December 4, 2025**

Clerk of the Court
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

**Re:** *El Malik v. Collins*, No. 25-6065

**Supplemental Authority Under Rule 15.8**

Dear Clerk:

Pursuant to Supreme Court Rule 15.8, Petitioner Rashid El Malik respectfully submits notice of a subsequent decision directly relevant to the questions presented in this petition. On December 3, 2025, the United States Court of Appeals for Veterans Claims issued its decision in *El Malik v. Collins*, Case No. 24-8553 (CAVC Dec. 3, 2025), affirming the Board of Veterans' Appeals' October 1, 2024 decision. A copy of this decision is attached as Exhibit A.

## RELEVANCE TO THE QUESTIONS PRESENTED

**First**, the CAVC decision confirms the ongoing constitutional violation at the heart of this petition. The Veterans Court affirmed the removal of Petitioner's vested benefits—automatic door openers and a rear wheelchair lift explicitly granted in the April 7, 2022 final Board decision—without any

Clear and Unmistakable Error (CUE) proceeding. The April 2022, Board decision became final on June 7, 2022. Under established law, final Board decisions may only be modified through CUE proceedings. *See* 38 C.F.R. § 20.1400. The CAVC's affirmance of de facto revocation of these vested benefits without CUE proceedings demonstrates that veterans are being stripped of constitutionally protected property interests without due process.

**Second**, the CAVC decision makes no mention whatsoever of the *Cushman v. Shinseki*, 576 F.3d 1290 (Fed. Cir. 2009), due process violation that the Secretary himself conceded in 2020. In September 2018, a VA employee (VR&E Chief Anthony Roeback) inserted a false statement into Petitioner's record, claiming Petitioner's federal tort lawsuit was "thrown out because the VA found the Veteran lied." The U.S. District Court, Central District of California, dismissed that case for lack of jurisdiction under 38 U.S.C. § 511—*not* for dishonesty. *See El Malik v. United States*, No. CV 17-5085 FMO (C.D. Cal. Feb. 14, 2018). The Secretary's own brief in 2020 stated: "the Secretary concedes that in light of this Order it is unclear whether the Board relied on accurate information from a VA employee in questioning the credibility of Appellant's statements. *See Cushman v. Shinseki*, 576 F.3d 1260, 1300 (Fed. Cir. 2009) (finding Due Process violation where VA relied on an altered medical record)." This false document remains in Petitioner's VA file to this day, and no court has ordered its removal despite the Secretary's own concession of error.

**Third**, the CAVC failed to apply *Martin v. O'Rourke*, 891 F.3d 1338 (Fed. Cir. 2018), despite the fact that Petitioner's disabilities are classified as "catastrophic" under 38 C.F.R. § 17.36(e)—the highest classification the VA assigns—and the April 2022 grant remains unimplemented after nearly four years. *Martin* holds that the severity of a veteran's condition directly bears

on the assessment of unreasonable delay. The CAVC's dismissal of Petitioner's delay arguments without meaningful *Martin* analysis demonstrates that courts are systematically refusing to enforce this Court's precedent regarding unreasonable delays affecting disabled veterans.

**Fourth**, the Federal Circuit has already characterized these same constitutional claims as "frivolous" and imposed filing restrictions on Petitioner. *See El Malik v. Collins*, No. 25-1300 (Fed. Cir. July 8, 2025). The December 3, 2025 CAVC decision, following the Federal Circuit's July 2025 sanctions order, confirms the systematic judicial refusal to address meritorious constitutional claims in veterans' benefits cases. A claim cannot be "frivolous" when the Secretary himself conceded error under *Cushman*, yet no court has provided a remedy.

## THE PATTERN OF SYSTEMATIC OBSTRUCTION

The December 3, 2025 decision represents the continuation of a documented pattern spanning nearly seven years. In September 2018, VR&E Chief Anthony Roeback dictated a false statement (VA Form 27-0820) that was subsequently used by the Board to deny Petitioner's benefits in May 2019. Critically, the Regional Office did not include this document in the Statement of the Case or Supplemental Statement of the Case—the certified evidence of record transmitted to the Board. The Law Judge went outside the evidence of record to obtain and rely upon this tainted document without providing Petitioner notice or an opportunity to respond, in direct violation of due process. Someone provided this uncertified document to the Law Judge, and despite Petitioner's requests for investigation into how this occurred, no inquiry has been conducted.

The December 2020 CAVC remand acknowledged this procedural violation but ordered only that Petitioner be given an opportunity to respond—not that the document be removed or that the breach be investigated.

When the Board finally granted four specific components in April 2022—only after Petitioner submitted the U.S. District Court order proving the Roeback statement was false—the Secretary pivoted to obstruction through "clarification" requests and administrative delay. Congressional intervention by Representative Ted Lieu's office resulted in an August 8, 2024 Board directive explicitly ordering implementation—which the Secretary ignored. SAH Supervisor Nathan Burdick has unilaterally refused to implement the Board's grant of a "complete two-story addition," reducing it to a kitchen extension despite the Board's final order. Even Petitioner's attempt to use approved grant funds for kitchen equipment was rejected. The CAVC decision characterized these due process arguments as "underdeveloped," notwithstanding the comprehensive record and Petitioner's pro se status requiring liberal construction under *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)

## CONCLUSION

The December 3, 2025 CAVC decision underscores the urgent need for this Court's review. The question of when mandamus relief is appropriate to remedy unreasonable delay and constitutional violations in veterans' benefits cases—particularly where the Secretary has conceded error, the veteran has secured a final grant, and that grant remains unimplemented after years of obstruction—requires this Court's guidance. The lower courts have systematically refused to address these issues. A catastrophically disabled Vietnam veteran who has waited nearly four years for implementation of safety modifications to his home, who suffered documented injuries from falls that those modifications were designed to

prevent, and who has been sanctioned for seeking judicial enforcement of his rights, has no remedy absent this Court's intervention.

Respectfully submitted,

Rashid El Malik

**Rashid El Malik**
Petitioner, Pro Se

**Enclosure:** CAVC Decision, Case No. 24-8553 (Dec. 3, 2025)

# EXHIBIT A

*Designated for electronic publication only*

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

No. 24-8553

RASHID A. EL MALIK, SR., APPELLANT,

V.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before LAURER, *Judge*.

**MEMORANDUM DECISION**

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

LAURER, *Judge*: Self-represented U.S. Army veteran Rashid A. El Malik, Sr., appeals an October 1, 2024, legacy decision[1] from the Board of Veterans' Appeals (Board) denying various equipment purchases and home modifications under a vocational rehabilitation independent living plan.[2] Appellant argues that the Board failed to apply the proper legal standard, consider all favorable medical evidence, and provide special consideration for his catastrophic disability classification.[3] He also asserts that the Board improperly altered a previous April 2022 Board decision when it found that some of the home modifications granted in that order had been

[1] Claims filed before the Veterans Appeals Improvement and Modernization Act of 2017, Pub. L. No. 115-55, 131 Stat. 1105 (codified as amended in scattered sections of 38 U.S.C.), went into effect are considered part of the legacy system. 38 C.F.R. § 3.2400(b) (2025); *Godsey v. Wilkie*, 31 Vet.App. 207, 214 n.2 (2019).

[2] Record (R.) at 3-23. The Board denied (1) an overhead cover for a wheelchair lift at the front of the home, (2) a cover over the front walk, (3) installation of a central air conditioning system, (4) an addition to the home for a new bathroom downstairs, (5) extension of the rear of the main bedroom to create a walk-in closet, (6) extension of the rear of the main bedroom to create a work-out room, and (7) creating access to an existing outdoor kitchen located near the pool area. The Board also granted additional equipment purchases and home modifications, claimed as (1) widening of all doorways inside the home, (2) replacement of existing wood decks, and (3) remodeling a kitchen to enable access while using a wheelchair, which are favorable determinations that the Court may not disturb. *See Medrano v. Nicholson*, 21 Vet.App. 165, 170 (2007), *aff'd in part, dismissed in part sub nom. Medrano v. Shinseki*, 332 F. App'x 625 (Fed. Cir. 2009).

[3] Appellant's Informal Brief (Br.) at 3, 16-28. References to the page numbers of appellant's informal brief refer to the page numbers as they appear in the scroll bar of the Portable Document Format (PDF).

completed.[4] The Secretary contends that appellant merely disagrees with how the Board weighed the evidence and that the Board changed no part of the April 2022 decision.[5] As explained below, the Court affirms.

## I. ANALYSIS

### A. Legal Landscape

Under the Veteran Readiness and Employment (VR&E) program, a veteran may be entitled to independent living services when a disability limits the ability to function independently.[6] VA will provide "appropriate housing accommodations" that are "necessary to carry out the veteran's plan" to live and function within the family and community without, or with a reduced level of, the services of others.[7] The relevant question in making this determination is whether each of the veteran's requested modifications is necessary to provide a measurable increase in his or her individual level of independence.[8]

The Secretary has broad authority to award and administer VR&E assistance.[9] So the Court reviews the Board's decision concerning entitlement to VR&E benefits under the "'arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law'" standard.[10] The "arbitrary and capricious" standard of review is highly deferential,[11] meaning that if the Board provides a rational connection between the facts and its decision, the Court must affirm.[12]

In all decisions, the Board must support its legal conclusions and factual determinations with adequate reasons or bases that enable appellant to understand the precise bases for its decision

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[4] Appellant's Informal Br. at 3, 8-15.

[5] Secretary's Br. at 7-25.

[6] 38 C.F.R. § 21.160(a) (2025).

[7] 38 C.F.R. § 21.160(b), (d)(2).

[8] *See* VA Gen. Couns. Prec. 6-2001, at ¶ 6 (Feb. 8, 2001).

[9] *See Kandik v. Brown*, 9 Vet.App. 434, 438 (1996) (quoting 38 U.S.C. §§ 3104, 3105(b)).

[10] *See Kandik*, 9 Vet.App. at 438.

[11] *See Elkins v. West*, 12 Vet.App. 209, 217 (1999) (en banc) (reviewing precedential decisions from the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) and reiterating that the "arbitrary and capricious" standard is a highly deferential standard of review).

[12] *Jordan v. Brown*, 10 Vet.App. 171, 175 (1997); *see also Abbott v. O'Rourke*, 30 Vet.App. 42, 47 (2018) (holding that under the "arbitrary and capricious" standard of review, "[t]he Court must affirm the Board's decision as long as the Board 'articulates a satisfactory explanation for its decision, including a rational connection between the facts found and the choice made'" (quoting *Lane v. Principi*, 16 Vet.App. 78, 83 (2002))).

and facilitate this Court's review.[13] To satisfy this requirement, the Board must analyze the credibility and probative value of relevant evidence, account for the evidence it finds persuasive or unpersuasive, and provide reasons for rejecting any evidence favorable to appellant.[14]

B. April 2022 Home Modification Grants

Appellant has pursued home modification benefits under the VR&E program for several years because of his disabilities.[15] As relevant to the current appeal, in April 2022, the Board granted several home modifications, including a lift in the rear of the house, automatic door openers, hardwood flooring, and a two-story addition to the rear of the house.[16] Following those grants, the appropriate VR&E division within the VA regional office noted that VR&E completed home modifications from another project and that such modifications overlapped with those granted in April 2022.[17] The VR&E office asked the Board to clarify whether the modifications granted in April 2022 had been fully implemented based on VR&E's previous work on appellant's house.

In October 2024, the Board considered whether each home modification granted in April 2022 had been completed. The Board found that a lift had been installed on the back of the house, so that grant was fully implemented.[18] The Board also concluded that automatic door openers had been installed on all necessary doors, so that grant had been fully implemented too.[19] As for the hardwood flooring, the Board found that it had been installed in part of the house, but the rest of the house had other wheelchair-accessible hard flooring.[20] The Board noted that appellant could continue to work with his assigned specially adapted housing agent on any additional hardwood flooring installation. As for the two-story addition, which hadn't yet been completed, the Board

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[13] 38 U.S.C. § 7104(d)(1); *Washington v. Nicholson*, 19 Vet.App. 362, 366-67 (2005).

[14] *Washington*, 19 Vet.App. at 366-67.

[15] *See* R. at 7-8 (summarizing that appellant is service connected for post-traumatic stress disorder, loss of effective use of both feet, status post arthroscopic repair left knee, postoperative bursitis, synovial irritation right knee, post-traumatic right wrist derangement, chronic migraine headaches, left wrist arthritis, degenerative disc disease and intervertebral disc syndrome, duodenal ulcer and hiatal hernia, voiding dysfunction, erectile dysfunction, amputation of the proximal middle phalanx of the long finger, hypertension, painful scars, and a bilateral shoulder disorder).

[16] R. at 16,789.

[17] R. at 4935, 4940-42.

[18] R. at 22.

[19] R. at 22-23.

[20] R. at 22.

said that it couldn't provide specific guidance because it lacked expertise.[21] It directed VR&E to consider the specifics given the other home modifications the Board granted on appeal.

Appellant asserts that the Board violated the rule of finality by retroactively modifying its April 2022 home modification grants.[22] He specifically contests the Board's conclusion that the grants for a rear lift and automatic door openers had been fully implemented. Appellant contends that in doing so, "the Board unilaterally decided to revoke" or "eliminate" those benefits.[23]

Although the Court liberally construes appellant's brief,[24] appellant fails to prove Board error. First, the Board didn't modify its April 2022 order as appellant contends. Instead, the Board's consideration was limited to whether the lift and automatic door opener modification grants had been completed, thus *fulfilling* part of its order. The Board didn't "eliminate" these grants—it ensured they were implemented. So the Board didn't reconsider a final decision, nor did it attempt to alter an earlier decision based on clear and unmistakable error.

Appellant doesn't undermine the Board's findings or explain how the Board otherwise revoked his modification grants.[25] And the fact that the Board didn't realize that VR&E was already working on appellant's house in April 2022 doesn't change whether the April 2022 grants were ultimately implemented. Appellant also doesn't specifically assert error with the Board's assessment of the hardwood flooring and two-story addition modifications.

The Secretary asserts that the law of the case doctrine precludes appellant's arguments because this Court and the Federal Circuit have already addressed them.[26] Although appellant had argued that VA delayed or altered parts of the April 2022 grants, he pursued those claims *before* the October 2024 Board decision now on appeal. Appellant now asserts error in the October 2024

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[21] R. at 23.

[22] Appellant's Informal Br. at 9-15.

[23] Appellant's Informal Br. at 11.

[24] *De Perez v. Derwinski*, 2 Vet.App. 85, 86 (1992); *Calma v. Brown*, 9 Vet.App. 11, 15 (1996) (explaining that it's the Court's practice to liberally construe the pleadings of self-represented litigants).

[25] *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009) ("[T]he burden of showing that an error is harmful normally falls upon the party attacking the agency's determination."); *see also Hilkert v. West*, 12 Vet.App. 145, 151 (1999) (en banc) ("An appellant bears the burden of persuasion on appeals to this Court."), *aff'd per curiam*, 232 F.3d 908 (Fed. Cir. 2000) (table).

[26] Secretary's Br. at 7.

decision. Since the Court isn't reconsidering an identical issue, the law of the case doctrine doesn't apply.[27]

C. Denial of Additional Home Modifications

In its October 2024 decision, the Board also denied several proposed home modifications, including a cover over the front lift, a cover over the front walk, central air conditioning, a downstairs bathroom, a walk-in closet, a workout room, and access to an existing outdoor kitchen.[28] Appellant contends that the Board used the wrong legal standard. He says that the Board improperly applied a "medical necessity" requirement instead of the "functional independence" requirement under 38 C.F.R. § 21.160.[29]

But appellant is misguided. The Board applied § 21.160 and explained that VA must provide all services necessary "to enable an eligible veteran participating in an independent living program to live and function independently . . . ."[30] The Board emphasized that any home modification must be "necessary" for functional living and "not merely desirable or helpful."[31] The Board then assessed "whether each of [appellant's] requested modifications [was] necessary to providing a measurable increase in his individual level of independence."[32] So the Board applied the proper standard for assessing each of the proposed home modifications, contrary to appellant's assertions.

Appellant also asserts that the Board failed to consider all favorable evidence.[33] Specifically, he says that the Board "failed to adequately weigh and reconcile conflicting medical opinions" and dismissed favorable opinions "without adequate rationale."[34] For completeness, the Court will address each denied home modification.

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[27] *See Johnson v. Brown*, 7 Vet.App. 25, 26 (1994) ("Where a case is addressed by an appellate court, remanded, then returned to the appellate court, the 'law of the case' doctrine operates to preclude reconsideration of identical issues."); *McCall v. Brown*, 6 Vet.App. 215, 216 (1994) ("[C]ourts generally will not review or reconsider issues which already have been decided in a previous appeal."). *See also Davis v. Collins*, ___ Vet.App. ___, No. 23-7719, 2025 WL 3121674 (Nov. 4, 2025).

[28] R. at 3-21.

[29] Appellant's Informal Br. at 3, 16-26.

[30] R. at 7 (citing G.C. Prec. 6-2001, at ¶ 10).

[31] R. at 7 (citing G.C. Prec. 6-2001, at ¶ 10).

[32] R. at 15 (citing *El Malik v. Wilkie*, No. 19-3611, 2020 WL 7380098 (Vet. App. Dec. 16, 2020) (mem. dec.)).

[33] Appellant's Informal Br. at 3, 16-26.

[34] Appellant's Informal Br. at 3.

*1. Front Lift Cover and Front Walk Cover*

Appellant argues that the Board ignored favorable medical opinions to deny a front lift cover and front walk cover. He points to a variety of private physician opinions from 2016, 2018, and 2022 that said front covers were a medical necessity or a safety necessity.[35] But the Board specifically addressed these opinions and found that they didn't promote appellant's functional independence.[36] The Board also addressed an April 2018 VA compensation and pension (C&P) exam report opining that a front walk cover wasn't necessary for independent living.[37] Lastly, the Board acknowledged a November 2022 VA physical medicine and rehabilitation consultation (rehab consult) that said covers were a "necessity."[38] Even if the November 2022 rehab consult opinion referred to necessity for functional independence, the physician didn't provide a rationale.[39] So the Board appropriately assigned it less probative weight.[40] Although the Board didn't discuss this opinion within its front cover analysis, the Board adequately addressed it in its decision. The Board has to weigh and interpret the evidence as factfinder.[41] Here, the Board addressed the relevant, favorable evidence[42] and considered the persuasive value of the competing evidence. Appellant hasn't shown that the Board's denial of front lift and front walk covers was arbitrary or capricious.

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[35] R. at 15,273-77, 15,323-27, 17,956-58; *see also* R. at 15,146-48.

[36] R. at 19-20.

[37] R. at 20, 1679-90.

[38] R. at 11,578-80.

[39] Although medical examiners needn't provide reasons or bases for their conclusions, their opinions must contain reasoned medical explanations connecting their conclusions to supporting data. *See Acevedo v. Shinseki*, 25 Vet.App. 286, 293 (2012); *Stefl v. Nicholson*, 21 Vet.App. 120, 124 (2007); *Nieves–Rodriguez v. Peake*, 22 Vet.App. 295, 304 (2008) ("[M]ost of the probative value of a medical opinion comes from its reasoning. Neither a VA medical examination report nor a private medical opinion is entitled to any weight in a service-connection or rating context if it contains only data and conclusions.").

[40] R. at 13.

[41] 38 U.S.C. § 7261; *see also Deloach v. Shinseki*, 704 F.3d 1370, 1380 (Fed. Cir. 2013) ("[T]he evaluation and weighing of evidence are factual determinations committed to the discretion of the factfinder—in this case, the Board.").

[42] Appellant argues that the Board should've explicitly addressed the April 2018 C&P examiner's statement about deferring to VA to determine whether a cover over the front *lift* was necessary. He also asserts that the Board should've addressed the fact that he was previously provided a temporary lift cover, thus implicitly showing that such a cover was needed. But the Board doesn't have to specifically address every piece of evidence in the record to provide adequate reasons and bases—and absent specific evidence to the contrary, the Court presumes that the Board has considered all the evidence. *Newhouse v. Nicholson*, 497 F.3d 1298, 1302 (Fed. Cir. 2007) (holding that absent specific evidence to the contrary, the Court presumes that the Board has considered all the evidence even when the Board doesn't mention that evidence in its decision).

*2. Central Air Conditioning*

Appellant maintains that the Board ignored evidence that installation of an air conditioning system was medically necessary given his lung disease. He argues that the Board didn't adequately address the following favorable evidence: opinions from his private physician from 2016, 2018, and 2022,[43] an October 2022 note from a VA physician,[44] and his catastrophic classification and severe respiratory condition. But appellant focuses on the wrong standard. The correct inquiry isn't whether a modification is a medical necessity, but whether such modification would increase appellant's independence. The Board cited these opinions and acknowledged their conclusions that central air conditioning might benefit his lung condition. But the Board concluded that central air conditioning wouldn't "provide for greater independence in daily living and a reduced reliability on others."[45] The Board has broad authority to award VR&E benefits, and appellant hasn't shown that the Board's denial of central air conditioning was arbitrary or capricious. Appellant's remaining arguments amount to a disagreement with the weight of the evidence.

*3. Downstairs Bathroom*

Appellant contends that the Board ignored evidence that a downstairs bathroom is a medical necessity. He points to his catastrophic disability designation and incontinence, a December 2022 VA addendum opinion,[46] an April 2018 C&P exam report,[47] and a September 2022 opinion from his private physician.[48] But appellant again relies on the wrong standard. The relevant question is whether the bathroom is necessary to increase appellant's functional independence. The Board found that a new bathroom wouldn't provide appellant any greater independence because the Board granted the widening of all doorways, so an existing bathroom would soon become accessible.[49] The Board has wide discretion to grant home modifications, and appellant doesn't show how this conclusion was arbitrary or capricious.

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[43] R. at 15,146-48, 15,273-77, 15,323-27; *see also* R. at 17,956-58.

[44] R. at 8461.

[45] R. at 19.

[46] R. at 11,580.

[47] R. at 21,614-24.

[48] R. at 15,273-77.

[49] R. at 17-18.

*4. Walk-In Closet and Workout Room*

Appellant asserts that the Board ignored evidence that these features were necessary. He points to the private physician's opinions that such modifications are medically necessary,[50] but again, this isn't relevant to the question of functional independence. Appellant also points to the November 2022 VA rehab consult opinion finding that these modifications were a "necessity."[51] But as noted above, the Board acknowledged this opinion and found that it lacked any rationale.[52] Appellant's remaining arguments amount to a disagreement with the weight of the evidence. The Board found that the existing workout room would be accessible after all doorways were widened, and the most probative evidence showed that a walk-in closet wouldn't increase appellant's level of independence.[53] The Board didn't miss any relevant, favorable evidence here, and its conclusion that a walk-in closet and workout room wouldn't increase appellant's level of independence isn't arbitrary or capricious.

*5. Access to Existing Outdoor Kitchen*

Lastly, appellant asserts that the Board ignored evidence that access to his existing outdoor kitchen is a necessity for independence, safety, and medical reasons. But again, the only relevant question is whether a particular home modification would improve appellant's level of independence. So the Board didn't err to the extent that it didn't discuss opinions on safety or medical necessity. As for functional independence evidence, appellant points to the November 2022 VA rehab consult opinion that found this was a "necessity."[54] Although the Board didn't mention this opinion explicitly in the analysis section, it adequately addressed it, as noted above. The Board concluded that access to an outdoor kitchen wasn't necessary to function independently, particularly since the Board granted appellant's request to remodel the indoor kitchen to enable wheelchair access.[55] The Board's decision was within its wide discretion to award VR&E benefits, and appellant fails to show how its denial of creating access to an existing outdoor kitchen was

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[50] R. at 15,146-48, 15,273-77, 15,323-27, 17,956-58.

[51] R. at 11,578-80.

[52] R. at 13; *see also* R. at 18 (specifically addressing the November 2022 opinion when discussing the necessity of a walk-in closet).

[53] R. at 18-19.

[54] R. at 11,578-80.

[55] R. at 20-21.

arbitrary or capricious. Appellant's remaining arguments assert that the Board should've considered the broader context of his situation.[56]

Ultimately, appellant hasn't shown that the Board's decision denying these home modifications was arbitrary or capricious—a highly deferential standard.[57] The Board has broad authority to grant VR&E benefits,[58] and the Court understands the basis for its denials. The Board acknowledged all relevant, favorable evidence and provided a rational connection between the facts and its decision. So the Court affirms the Board's decision.

D. Other Arguments

Appellant argues that the Board failed to "evaluate the denied modifications within the correct overarching context."[59] He says that his catastrophic disability classification "entitles him to enhanced consideration under 38 U.S.C. § 1717 and creates a presumption in favor of necessary accommodations."[60] But 38 U.S.C. § 1717 addresses home health services and invalid lifts and other devices.[61] Appellant doesn't explain how either this provision or a catastrophic disability classification creates a presumption or entitles him to special consideration.[62] To the extent that he asserts that he's entitled to the benefit of the doubt, the Board applied this rule by considering whether the evidence was in approximate balance.[63] For the denied home modifications, the Board

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[56] Appellant's Informal Br. at 26 (noting (1) a May 2024 email from his specially adapted housing agent that recommended an exterior lift, (2) his ability to cook apart from his wife, and (3) broader backyard accessibility and safety concerns).

[57] *See Elkins*, 12 Vet.App. at 217 (explaining that the "arbitrary and capricious" standard is a highly deferential standard of review).

[58] *See Kandik*, 9 Vet.App. at 438.

[59] Appellant's Informal Br. at 27.

[60] Appellant's Informal Br. at 8.

[61] *See, e.g.*, 38 U.S.C. § 1717(a)(1) ("[T]he Secretary may furnish such home health services as [he] finds to be necessary or appropriate for the effective and economical treatment of the veteran."), (b) ("The Secretary may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated . . . ."), (c) ("The Secretary may furnish devices for assisting in overcoming the handicap of deafness . . . .").

[62] In his reply brief, appellant points to 38 C.F.R. § 17.36(e) to assert that a catastrophic disability classification entitles him to enhanced legal consideration and presumptions favoring accommodation. But § 17.36(e) says nothing about creating presumptions or entitling a veteran to extra favorable consideration. Appellant fails to explain how this provision entitled him to special consideration or how the Board erred in assessing his proposed home modifications.

[63] R. at 21; *see Ortiz v. Principi*, 274 F.3d 1361, 1364-65 (Fed. Cir. 2001) ("The statutory benefit of the doubt rule thus would apply only when the factfinder determines that the positive and negative evidence relating to the veteran's claim are 'nearly equal,' thus rendering any decision on the merits 'too close to call.'").

found that "evidence is persuasively against the remaining equipment purchases/home modifications."[64]

The Court won't consider any new arguments that appellant raised in his reply brief.[65] And his other arguments—related to different court proceedings, bad faith, due process concerns, and other VA error—are underdeveloped. Even though appellant is self-represented, he must still support his contentions with adequate rationale.[66] As the appellant, it's his burden to show Board error.[67] He hasn't done that here, so the Court must affirm.

## II. CONCLUSION

For these reasons, the Court AFFIRMS that part of the Board's October 1, 2024, decision denying VR&E equipment purchases/home modifications, claimed as an overhead cover for a wheelchair lift at the front of the home, a cover over the front walk, installation of a central air conditioning system, an addition to the home for a new bathroom downstairs, extension of the rear of the main bedroom to create a walk-in closet, extension of the rear of the main bedroom to create a workout room, and creating access to an existing outdoor kitchen located near the pool area.

DATED: December 3, 2025

Copies to:

Rashid A. El Malik, Sr.

VA General Counsel (027)

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[64] R. at 21.

[65] *See Pederson v. McDonald*, 27 Vet.App. 276, 283 (2015) (en banc) (explaining that the Court may decline to hear arguments raised for the first time in a reply brief).

[66] *See Locklear v. Nicholson*, 20 Vet.App. 410, 416 (2006) (holding that the Court won't entertain underdeveloped arguments); *Evans v. West*, 12 Vet.App. 22, 31 (1998) ("Absent evidence and argument, the Court will give no further consideration to this unsupported contention."); *see Dojaquez v. McDonough*, 35 Vet.App. 423, 431 (2022) (per curiam order) (finding an argument undeveloped when appellant didn't provide an argument or analysis supporting a contention and solely cited authority without elaborating).

[67] *Hilkert*, 12 Vet.App. at 151 ("An appellant bears the burden of persuasion on appeals to this Court.").