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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

NO. 14-4104

RHONDA HUNT, PETITIONER,

V.

ROBERT A. McDONALD,
SECRETARY OF VETERANS AFFAIRS, RESPONDENT.

Before SCHOELEN, *Judge*.

ORDER

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

On December 3, 2014, the petitioner, Rhonda Hunt, through counsel, filed with the Court a petition for extraordinary relief in the form of a writ of mandamus compelling VA to act on her claim in accordance with an October 2013 Board of Veterans' Appeals (Board) decision. *See* Petition (Pet.) at 1. The petitioner asserts that she is seeking a total disability rating due to individual unemployability (TDIU). *Id.* The petitioner states that in October 2013 the Board remanded her claim with instructions for the regional office (RO) to obtain VA treatment records and a medical opinion from a vocational specialist and then consider whether the petitioner's case warranted referral to the undersecretary for benefits or the director of the Compensation and Pension Service for extraschedular consideration. *Id.*; Exhibit (Ex.) A.

The petitioner reports that she underwent VA examinations in April and August 2014 and that her representative provided VA with additional evidence in support of her claim. Pet. at 2. The petitioner avers that her counsel contacted the RO by telephone on May 7, 2014, and June 4, 2014, and by letter on September 9, 2014, asking that her file be referred for extraschedular consideration. *Id.* On October 7, 2014, the petitioner's counsel contacted the undersecretary for benefits requesting assistance. *Id.* Finally, the petitioner avows that, on November 19, 2014, her counsel spoke with an RO employee who explained that remands were being deferred to allow other cases to be processed and that he would make a note that the April 2014 examination should be reviewed. *Id.*

The petitioner argues that, because the petitioner has attempted, without success, to spur the RO to act on the Board remand, extraordinary relief is appropriate. *Id.* at 4. Accordingly, she requests that the Court enter a writ of mandamus compelling the Secretary to comply with the Board's remand instructions or provide a valid reason why this action cannot be taken. *Id.* at 4-5.

On December 11, 2014, the Court ordered the Secretary to respond, within 30 days, to the petition. On January 12, 2015, the Secretary filed a timely response. The Secretary reports that on December 17, 2014, the Waco RO issued a Supplemental Statement of the Case that determined that referral for extraschedular TDIU consideration was not warranted and denied the petitioner's request for TDIU. Secretary's Response at 2.

This Court has adopted the case-or-controversy jurisdictional requirements imposed by Article III of the U.S. Constitution. *Aronson v. Brown*, 7 Vet.App. 153, 155 (1994). Where all relief sought by a petition for extraordinary relief has been afforded, the petition is moot. *See Chandler v. Brown*, 10 Vet.App. 175, 177 (1997) (per curiam order); *Thomas v. Brown*, 9 Vet.App. 269, 270 (1996) (per curiam order). As the RO has now acted on the petitioner's TDIU request in accordance with the October 2013 Board decision, the relief sought by the petitioner has been granted, and she can now pursue an appeal. Thus, the petition for extraordinary relief in the form of a writ of mandamus is now moot.

Upon consideration of the foregoing, it is

ORDERED that the petitioner's December 3, 2014, petition for extraordinary relief in the form of a writ of mandamus is DISMISSED.

DATED: January 21, 2015

BY THE COURT:



MARY J. SCHOELEN
Judge

Copies to:

Daniel G. Krasnegor, Esq.

VA General Counsel (027)