No. _____

IN THE
Supreme Court of the United States

JULIEN P. CHAMPAGNE,

Applicant,

v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS

Respondent.

On Application for Extension of Time

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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August 1, 2025

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the Federal Circuit:

Pursuant to this Court's Rule 13.5, applicant Julien P. Champagne respectfully requests a 30-day extension of time, to and including October 2, 2025, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Federal Circuit issued its opinion and entered judgment on December 6, 2024. A copy of the opinion is attached as Exhibit A. The court of appeals denied Mr. Champagne's timely petition for rehearing on June 3, 2025. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

Absent an extension, a petition for a writ of certiorari would be due on September 2, 2025. This application is being filed more than 10 days in advance of that date.

1. This case concerns the interpretation of regulations governing veterans' benefits. And in particular, it concerns the construction of an important regulation governing the standard for the Department of Veterans Affairs' interpretation of claims for certain disability benefits: compensation benefits and pension benefits. Compensation payments make veterans whole for service-connected disabilities.[1] Pension payments provide a minimum-safety net for wartime veterans with little in assets or income who are elderly or permanently and totally disabled.[2] Veterans cannot receive both compensation and pension benefits. 38 U.S.C. § 5304(a)(1).

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[1] *Eligibility for VA Disability Benefits*, U.S. Department of Veterans Affairs (Aug. 15, 2023), https://www.va.gov/disability/eligibility/.
[2] *Eligibility for Veterans Pension*, U.S. Department of Veterans Affairs (Jan. 16, 2025), https://www.va.gov/pension/eligibility/.

2. Veterans who qualify for both types of benefits tend to be those in the greatest need and least equipped to make an informed election at the outset. VA regulation 38 C.F.R. § 3.151(a) assures veterans that "[t]he greater benefit will be awarded, unless the claimant specifically elects the lesser benefit." To effectuate that promise, the regulation also provides that "[a] claim by a veteran for compensation may be considered to be a claim for pension; and a claim by a veteran for pension may be considered to be a claim for compensation." *Id.*

3. The VA has historically evaluated pension and compensation eligibility together. Indeed, the VA has generally offered a single consolidated form for both claims, and does so today. This parallel review aids in identifying the maximum benefit for each veteran, and promotes efficiency because both claims typically require evaluating the veteran's disabilities. That longstanding practice is reflected in the VA's internal adjudication manual in 1983, only a few years before Mr. Champagne submitted his initial claim (in September 1987): "Irrespective of the items completed or the words used by the veteran [on the form submitted] *if potential entitlement to either [compensation or pension] benefit exists, the claim should be processed accordingly*, unless he/she specifically states he/she is not claiming one or the other." VA Manual § 21.01(d)(1) (emphasis added). The Veterans Court likewise initially recognized that § 3.151(a) created a duty to evaluate a claim for compensation as also claiming a pension and vice versa. *Kellar v. Brown*, 6 Vet. App. 157, 162 (1994); *Ferraro v. Derwinski*, 1 Vet. App. 326, 333 (1991).

4. Diverging from this long-standing interpretation, the VA and the

Veterans Court did an about-face years later, reading "may" in § 3.151 as conferring discretionary power for the VA to disregard a veteran's meritorious compensation claim by choosing to consider his application form as a pension claim only. *See Stewart v. Brown*, 10 Vet. App. 15, 18 (1997) ("The Secretary is not automatically required to treat every compensation claim as also being a pension claim or vice versa."). That is the interpretation the VA applied in Mr. Champagne's case. *Champagne v. McDonough*, 122 F.4th 1325, 1331 (Fed. Cir. 2024).

5. In this case, the Federal Circuit had before it a proper vehicle to address the VA's interpretation. In a precedential opinion, the Federal Circuit affirmed the Veterans Court's interpretation, holding that the VA "is allowed, but not required, to consider a pension claim as a compensation claim, and vice versa," even when declining to do so deprives the veteran of the greater benefit for which he is eligible. *Champagne*, 122 F.4th at 1330. The Federal Circuit misconstrued the plain text, context, and regulatory history and practice. And the Federal Circuit failed to read the regulation as part of an organic whole in harmony with the "singular characteristics of the review scheme that Congress created for the adjudication of veterans' benefits claims." *Henderson v. Shinseki*, 562 U.S. 428, 440 (2011); *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946) (provision of statute should be construed "as parts of an organic whole and give each as liberal a construction for the benefit of the veteran as a harmonious interplay of the separate provisions permits.").

6. The Federal Circuit failed to recognize that in order for the VA to comply with § 3.151(a)'s overall mandate—that "[t]he greater benefit will be awarded, unless

the claimant specifically elects the lesser benefit"—the VA must, by default, develop any claim for compensation and pension that might arise from the disabilities identified in the veteran's claim. This does not require VA to treat *every* pension claim as a compensation claim, and vice versa. For example, pension claims based on old age rather than a disabling condition need not be evaluated for compensation, and compensation claims filed by veterans with no wartime service need not be evaluated for pension. But VA's duty to award the greater benefit does require the agency to consider both compensation and pension eligibility for the information presented in a claim, including *all disabilities*, regardless of how the application form is completed, unless the veteran specifically asks VA to adjudicate only one benefit.

7. The result of the Federal Circuit's interpretation is that Mr. Champagne, a Marine Corps veteran who deployed during the Korean War, has been denied significant compensation benefits. *See Champagne*, 122 F.4th at 1327; C.A. App. 17, 18. After acquiring malaria while deployed during the Korean War, Mr. Champagne was diagnosed with cerebellar degenerative disorder ("CDD"), a condition that increasingly impaired his balance and speech. *See* C.A. App. 18-22. In September 1987, he filed his first application for disability benefits on a form titled "Veteran's Application for Compensation or Pension," where he listed CDD as a disability. *Champagne*, 122 F.4th at 1327. The VA confirmed that Mr. Champagne was completely and permanently disabled and had no meaningful income or assets; on that basis, VA awarded him a pension. *Id.* Years later, and after multiple proceedings, the VA acknowledged that his service-related malaria may have caused his CDD. *Id.*

It awarded him compensation for his total disability but refused to grant him retroactive benefits dating back to his initial 1987 application. *Id.* at 1327-1328.

8. Mr. Champagne is just one of a multitude of disabled veterans who have been affected by the *Stewart* rule, which the Federal Circuit has now cemented in place. *See, e.g.*, *Patty v. Peake*, 2008 WL 1810193, at *1 (Vet. App. Mar. 26, 2008); *Winfrey v. McDonald*, 2015 WL 1119685, at *7 (Vet. App. Mar. 12, 2015). The issue presented is of exceptional importance to veterans and the adjudication of veterans disability claims. Only this Court can review the Federal Circuit's interpretation of the regulation in question because the Federal Circuit has exclusive subject-matter jurisdiction in this area. 38 U.S.C. § 7292(c).

9. Applicant respectfully requests a 30-day extension of time to file its petition for a writ of certiorari from the Federal Circuit's decision, to and including October 2, 2025. Mr. Champagne's pro bono counsel have been heavily engaged with other matters and have other commitments that make the preparation of a petition for a writ of certiorari by the existing deadline impracticable. These commitments include a petition for rehearing en banc at the Federal Circuit that was due on July 31, an amicus brief due in the Fourth Circuit on August 8, a reply brief due in the Southern District of New York on August 8, an answering brief due in the D.C. Circuit on August 11, an amicus brief due in the Ninth Circuit on August 18, a reply brief due in the Southern District of New York on August 22, a reply brief due in the Fourth Circuit on August 25, an opening claim construction brief due in the District of New Jersey on September 4, and pre-planned family commitments related to the summer

season. An extension is therefore reasonable and supported by good cause. The federal government will not suffer any prejudice from the requested extension.

For the foregoing reasons, Mr. Champagne's counsel requests that the time to file a petition for a writ of certiorari be extended to and including October 2, 2025.

Respectfully submitted,

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