

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Jeffrey E. AKARD — PETITIONER
(Your Name)

vs.

Denis McDonough — RESPONDENT(S)
Sec. of Veteran's Affairs
ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Federal Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jeffrey E. AKARD #199176
(Your Name)

1000 Van Nuys Rd.
(Address)

New Castle IN 47362-9060
(City, State, Zip Code)

N/A
(Phone Number)

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QUESTION(S) PRESENTED

Does a disabled veteran have a "personal stake, interest, or standing" on seeing that his withheld 20% benefit, due to his incarceration, receive a 'special apportionment' to be sent to his SSA disabled Father?

IF this disabled veteran had a wife, child, and a disabled Father, wouldn't the veteran file for whom it goes to and be the person to file appeals for his apportionment's decision?

When a veteran's withheld 20% benefit's dollar amount per month is not enough money for the veteran's Father, or anyone, to obtain "dependant" status, then shouldn't the veteran be the party to file for 'special apportionment'?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from Federal Courts:

The opinion of the United States Courts of Appeals appears in Appendix A to the petition and is

reported at 2021-1383 2021 WL 5876031 Lexis 36633; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States ^{Veteran's Claims} District Court appears at Appendix B to the petition and is

reported at 19-6262; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix ____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was 12/13/2021, Mandate Feb. 03, 2022. Appx. A

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of the Court is invoked under 28 U.S.C. §1254(1).

For cases from the state courts:

The date on which the highest state court decided my case was _____
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Appendix No. A.

The jurisdiction of the Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth and Fourteenth Amend. due process rights violated to a state incarcerated pro-se petitioner's brief not considered by 38 CFR § 3.451 Special Apportionment, states in part,

"Without regard to any other provision regarding apportionment where hardship is shown to exist...

may be specially apportioned... In determining the basis for special apportionment, consideration will

be given such as factor as: Amount of Department

of Veterans Affairs benefits payable; apportionment

of less than 20 percent of his or her benefits would

not provide a reasonable amount for any apportionee."

Where appeals are denied on apportionment, not special apportionment, veteran's father proof of SSA disability, and 20% is requested.

Dependant status to deny claims violates due process by the 10%

current benefit cannot make him my dependant, nor 20% benefit

requested would not be enough money to claim dependant. So,

STOP denying a "Special Apportionment" for those reasons.

Eighth Amend. Cruel and Unusual Punishment violations by use of, incarcerated veteran does not have a "Personal stake,

interest, or standing" in the appeal. However, due to incarceration

the VA 38 CFR § 5313 reduces my VA disability benefit to 10%

and then withholds the 20% benefit as punishment on top of

my sentence. Further not allowing this 20% benefit to be sent to

my disabled father is a third additional 8th Amend. violation.

STATEMENT OF THE CASE

Petitioner appeals cause 2021-1383 Dec. 13, 2021, denial of special apportionment to veteran's disabled Father by United States Court of Appeals for the Federal Circuit and thier Feb. 03, 2022, Mandate Issuing a Final judgment as Feb. 17, 2022. Appx. A.

Jeffrey E. Akard, pro-se, a serviced-connected honorably discharged From Full-enlistment 30% disabled veteran, is presently incarcerated with suppressed actual innocence evid, not adjudicated on the merits of Const. violations. Veteran's disability compensation was reduced by 38 CFR § 5313 From 30% to 10% in June 2009. In 2013 Akard learned his Father was awarded Full SSA disability and that a VA 38 CFR § 3.451 Special Apportionment existed.

In May 2018, VA denied apportionment request. Appx. D.

In June 2019, VA Board dismissed appeal. Appx C.

In Aug. 2020, Ct. Veteran's Claims affirmed Board. Appx. B.

In Dec. 2021, Ct. Fed. Cir. App. affirmed Vet. Ct. Appx A.

In Feb 2022, Ct. Fed. Cir. App. Issued Final judgment. Appx A.

REASONS FOR GRANTING THE PETITION

Petitioner's "Personal stake, interest, and standing" in the outcome of this controversy is being able to reach out from behind these prison walls to provide some assistance for my disabled Father, by support from a 20% VA benefit 'Special Apportionment' pursuant 38 CFR § 3.451. I ask the Justices to not condemn my Father due to my incarceration or on the blanket use of Belton, Ferenc, or Redding's "typically" reasons.

The Board and appeals courts offer a 'catch 22' by saying, 1) veteran presents no support payments being sent to parent, from his current reduced 10% benefit per 38 CFR § 5.313; and 2) veteran's Father is not his dependant, even though the bare minimum amount of 20% (Key Factor for apportionment § 3.1665(e)(1)) is not enough money (10% or 20%) to make anyone a dependant; 3) VA Form 21P, 509 is based on 30% or higher benefit and 38 USC 7101-13 is moot when veteran's Father cannot be a "dependant" living off of available 20% benefit requested.

Therefore, filing and appeal process rests with the veteran to get a Special Apportionment granted since the Father can't apply.

The burden of "hardship is shown to exist" in § 3.451 and VCAA 2000, by proof in his Father's 2009 SSA Notice of Award of disability, showing a 38 CFR 3.102 Reasonable doubt in lower court's decision that should be resolved in favor of claimant.

Recently in, *Akard v. McDonough*, 2021 U.S. App. Lexis 36633, courts are using reasoning in my case (non precedential) not binding but a "Akard definition" in, *Feller v. McDonough*, 2022 U.S. Vet. Claims Lexis 244 No. 18-7000, is quoted in Opinion and Dissent, "Akard tracked the statute providing for the people who may appeal." See ante at 14 n.10. If veteran had a wife or child, this

Would be simple, but this is an "unusual IF not exceptional circumst." to grant special apportionment decision in veteran's favor, and ultimately his Father's favor. see Shipwash v. Brown, 8 Vet. 218/1995).

Veteran Akard was sentenced in 2009, but these denials amount to additional punishment to his prison sentence where he could relieve some hardships from his father, with this 'bare minimum' 20% benefit special apportionment since he cannot be there in person to help him out.

Therefore, no court adjudicated merits of Fifth, Eighth, or Fourteenth Amend. Viol. using 38 CFR § 3.451 Special Apportionments' guidance, shown on p. 3, that provides this 20% benefit may relieve hardship for veteran's father's SSA disabilities.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully Submitted,

Jeffrey E. Akard (SIGNATURE)
Petitioner, pro se
Jeffrey E. AKARD #199176 (PRINTED NAME)

Date: March 11, 2022

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