IN THE

# Supreme Court of the United States

JULIEN P. CHAMPAGNE,

*Petitioner,*

v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS

*Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

## PETITION FOR A WRIT OF CERTIORARI


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## QUESTION PRESENTED

In order to receive disability benefits, a veteran must file a "specific claim in the form prescribed by the Secretary" of Veterans Affairs. 38 U.S.C. § 5101(a). Department of Veterans Affairs ("VA") regulations govern the submission of claims for disability benefits, including the two most important types of benefits: claims for compensation for service-connected disability and claims for pension for disabled veterans.

Veterans eligible for both types of benefits may receive only one, and the two options can result in vastly different awards. But veterans—especially veterans poor and disabled enough to qualify for both—often cannot independently assess their eligibility for, and amount of entitlement under, each benefit. Given that reality, VA regulation 38 C.F.R. § 3.151(a) reassures veterans that regardless of how they complete their application for benefits, "[t]he greater benefit will be awarded," because 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."

The question presented is:

Whether the VA must process a disability claim as a claim for both pension and compensation if the veteran has a possible entitlement to both benefits and award "the greater" benefit available as provided by 38 C.F.R. § 3.151(a), or whether the VA instead has discretion to disregard a potentially meritorious compensation claim and therefore afford the lesser benefit available to the veteran?

## PARTIES TO THE PROCEEDING

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

## RELATED PROCEEDINGS

This case arises from the following proceedings:

*Champagne v. McDonough*, United States Court of Appeals for the Federal Circuit, No. 23-1047

*Champagne v. McDonough*, United States Court of Appeals for Veterans Claims, No. 21-1156

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## INTRODUCTION

This case presents an important and recurring question concerning the VA's duty to wartime veterans who qualify for two types of disability benefits but can receive only one: (1) compensation payments to make them whole for service-connected disabilities or (2) pension payments to provide a minimum safety net against destitution for those who served during a time of war.

At issue is the meaning of a claims-processing regulation governing the VA's duty to consider a veteran's eligibility for both types of benefits. The choice of benefit can result in vastly different awards, but veterans applying for assistance often cannot independently assess their eligibility for, and amount of entitlement under, each benefit.

That regulation, 38 C.F.R. § 3.151(a) states that "[t]he greater benefit will be awarded" and requires the VA to evaluate disability claims for potential pension and compensation eligibility to ensure that each veteran receives the greater available amount by default. But contravening the regulation's text and context, the VA and Federal Circuit adopted a construction that grants the VA discretion to disregard a veteran's eligibility for certain benefits based on how boxes are ticked on the VA's application form. The ruling most harms wartime veterans who are simultaneously poor and disabled enough to qualify for both compensation and pension benefits.

The plain text of § 3.151(a) assures veterans that when they file disability claims on the "form prescribed," their claims will be construed liberally rather than strictly. Veterans will not be boxed in

merely because they apply for only one kind of benefit—whether by mistake, lack of knowledge, or otherwise. The regulation promises 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"—ensuring that "[t]he greater benefit will be awarded, unless the claimant specifically elects the lesser benefit." *Id.*

Section 3.151(a)'s promise of flexibility coheres with its context—the constellation of duties that the VA owes to veterans in its uniquely pro-claimant system. This includes the duties to read pro se filings sympathetically, to assist, and to maximize the benefits awarded.

It also reflects the VA's previous recognition—both before and after promulgating § 3.151(a)—of its duty to assess all available benefits when considering disability claims filed on its forms. *See* 38 C.F.R. § 2.1026(a) (1938) (the appropriate form "will be considered an application for all disability compensation or disability pension benefits for which the veteran may be eligible"); Department of Veterans Benefits Manual, M21-1, Adjudication Procedure § 21.01(d)(1) (1983), https://tinyurl.com/863dc4ks ("Irrespective of the items completed or the words used by the veteran, if potential entitlement to either benefit exists, the claim should be processed accordingly….").

Yet, the VA and Federal Circuit construed § 3.151(a) as making its express greater-benefit requirement contingent on how the VA first exercises its supposed discretion, which the court held is conferred by the isolated word "may." According to the Federal Circuit, the duty to award the greater benefit only arises if the VA chooses to evaluate both claims. Pet.

App. 12a-13a. But nothing in the use of "may" grants the VA authority to preempt the promise in the very next sentence. In adopting this reading, the panel relinquished its own duty to construe provisions of veterans' benefit laws as "parts of an organic whole," giving each "as liberal a construction for the benefit of the veteran as a harmonious interplay of the separate provisions permits." *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946).

The result is that Mr. Champagne, who filed a disability claim in 1987 for a condition that the VA now acknowledges to be service connected, is denied decades of compensation payments because the VA chose not to investigate his compensation eligibility at the outset—an error amounting to hundreds of thousands of dollars, a life-changing amount for a poor and disabled veteran.

Mr. Champagne is not alone. Hundreds of administrative and Veterans Court decisions have relied on the interpretation endorsed by the court of appeals. The issue presented has affected, and will continue to affect, significant numbers of disabled veterans. The importance of the question presented is also deeply consequential because of the particular circumstances of those affected. The veterans most likely to be affected are indigent (often homeless) wartime veterans with disabilities and thus have potential entitlement to both compensation and pension benefits. For these wartime veterans, the Federal Circuit's rule can be the difference between sleeping in a bed each night and sleeping on the streets.

This is an ideal vehicle to consider the question presented. The holding is case dispositive for Mr.

Champagne, who lost nearly two decades of compensation benefits for a profoundly debilitating condition that the VA ultimately concluded was service connected. The issue was exhaustively litigated before the Veterans' Court and Federal Circuit, including in a petition for rehearing en banc.

No further percolation is possible because the Federal Circuit has exclusive jurisdiction over the meaning of veterans' benefits provisions like the regulation at issue here. This case is thus binding on all future veterans' benefits cases. And because the Federal Circuit has spoken in a published decision and denied en banc review, veterans will have no reason to pursue an appeal on this issue in the future. To put a fine point on it: it's now or never.

This case is also an ideal vehicle for resolving the role of the veterans canon in the interpretation of veterans' benefits laws now that this Court has clarified judges' obligation to independently bring to bear "all [the] interpretive tools" of construction. *Kisor v. Wilkie*, 588 U.S. 558, 576 (2019); *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 393 (2024).

The Federal Circuit refused to apply the veterans canon because it did not find "ambiguity." But "ambiguity" is an illusory and unworkable trigger. As this Court has recognized, "the concept of ambiguity has always evaded meaningful definition," *i.e.*, "[h]ow clear is clear?" *Loper Bright*, 603 U.S. at 408. The veterans canon has an important role to play as an interpretive tool for construing statutes and regulations given its role in centering the unique context of veterans' benefits laws. But the Federal Circuit has rendered it obsolete.

The Court should grant certiorari and reverse, thus restoring the VA's duty to the veterans it serves.

## OPINIONS BELOW

The opinion of the Court of Appeals for the Federal Circuit (Pet. App. 3a-15a) is reported at 122 F.4th 1325. The opinions of the Court of Appeals for Veterans Claims (Pet. App. 16a-34a) and of the Board of Veterans' Appeals (Pet. App. 35a-56a) are not reported.

## JURISDICTION

The judgment of the court of appeals was entered on December 6, 2024. The court of appeals denied rehearing and rehearing en banc on June 3, 2025. On August 6, the Chief Justice extended the time to file this petition until October 2, 2025. And on September 29, 2025, the Chief Justice extended the time to file to October 16, 2025. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

## REGULATORY PROVISION INVOLVED

Title 38 of the Code of Federal Regulations provides, in relevant part:

> **§ 3.151. Claims for disability benefits**
>
> (a) ***General***. A specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by VA. (38 U.S.C. 5101(a)). 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. The greater benefit will be awarded, unless the claimant specifically elects

> the lesser benefit. (See scope of claim, § 3.155(d)(2); complete claim, § 3.160(a); supplemental claims, § 3.2501(b)).

The foregoing provision is set forth in full in the Appendix, *infra*, at Pet. App. 57a-59a.

## STATEMENT

### I. Legal Background

#### A. The VA's Duties to Claimants

By statute, regulation, and established practice, the VA is obligated to adjudicate and administer benefits to veterans in a distinctly "non-adversarial" and "pro-claimant" manner. *Comer v. Peake*, 552 F.3d 1362, 1368 (Fed. Cir. 2009) (citation omitted). Among the "singular characteristics" of this uniquely pro-claimant system are the VA's myriad affirmative duties that serve to help veterans obtain every benefit to which they are entitled. *Henderson v. Shinseki*, 562 U.S. 428, 440 (2011). Three of these duties are of particular relevance here:

***Duty to sympathetically construe pro se filings***. The VA has long had an obligation to "give a sympathetic reading" to pro se filings, which applies to the vast majority of the initial applications for disability benefits, including Mr. Champagne's. *Szemraj v. Principi*, 357 F.3d 1370, 1373 (Fed. Cir. 2004). This duty requires the VA to review claimants' submissions to "determine all claims for recovery supported by a liberal construction" of the facts asserted in the pleading, even if the veteran does not articulate a clear request to assert those claims. *Id*. The duty is emblem-

atic of the non-adversarial and claimant-friendly approach by which the VA is supposed to approach adjudication of benefits.

***Duty to assist***. Having generously construed the claims, the VA then has the statutory duty to "assist" veterans in proving their case by "fully and sympathetically" developing and obtaining evidence necessary to substantiate those claims. 38 U.S.C. § 5103A; 38 C.F.R. § 3.159; *McGee v. Peake*, 511 F.3d 1352, 1357 (Fed. Cir. 2008).

***Duty to maximize***. Once the VA has assessed the veterans' eligibility for all potential claims, the agency is obligated to "maximize benefits" for each veteran when determining the award. *Bradley v. Peake*, 22 Vet. App. 280, 294 (2008); 38 C.F.R. § 3.103(a). Thus, in VA benefits adjudication, veterans are not tasked with poring through regulations to determine what benefits they should request—the VA is tasked with helping veterans conduct that assessment and presenting them with the best options.

Altogether, these duties aim to ensure that the VA disability compensation system does not become "a trap for the unwary." *Acree v. O'Rourke*, 891 F.3d 1009, 1013 (Fed. Cir. 2018) (citation omitted).

### B. Pension and Compensation Benefits

The VA administers two types of financial benefits to disabled veterans—compensation and pension benefits—but may award only one at a time to a given veteran. 38 U.S.C. § 5304(a)(1). A *compensation* award aims to make veterans financially whole for disabilities that are service-connected, *i.e.*, incurred or

worsened by military service.[1] A *pension* award is a minimum-safety net reserved for wartime veterans with little in assets or income who are elderly or permanently and totally disabled but their disability is not necessarily connected to military service.[2] These benefits serve distinct purposes, have different eligibility criteria, and can result in vastly disparate awards. Veterans who qualify for both types of benefits are wartime veterans in the greatest financial need and who, given their current hardships, tend to be the least equipped to make an informed election at the outset.

The VA has historically evaluated pension and compensation eligibility together. 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. Indeed, for most of the VA's history, it offered a single consolidated form for both claims. One of the VA's earliest regulations addressing its disability claim form made clear that it would be "considered an application for all disability compensation or disability pension benefits for which the veteran may be eligible." 38 C.F.R. § 2.1026(a) (1938).

After experimenting with separate forms after World War II, the VA returned in 1952 to a single form that served as a "formal claim for both [compensation and pension] benefits." Application for Benefits, 17

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[1] *Eligibility for VA Disability Benefits*, Department of Veterans Affairs (updated Apr. 23, 2025), https://www.va.gov/disability/eligibility/.

[2] *Eligibility for Veterans Pension*, Department of Veterans Affairs (updated July 18, 2025), https://www.va.gov/pension/eligibility/.

Fed. Reg. 7854, 7854-7855 (Aug. 28, 1952). The regulation accompanying this new form maintained that "*all disabilities*, both service connected and non-service connected, *will be evaluated and the greater benefit awarded*." *Id.* at 7855 (emphasis added). As recognized in the same regulation, this obligation to maximize benefits for all disabilities did not require the VA to proceed with processing each and every claim for both pension and compensation "in all instances." *Id.* After all, some conditions on their face cannot qualify for one or the other benefit: for example, pension claims based solely on age cannot be the basis for a compensation claim, and injuries sustained by a veteran with only peace-time service cannot qualify for a pension.

**C. 38 C.F.R. § 3.151**

The VA's use of a consolidated application form for pension and compensation benefits continued through 1961, when the VA promulgated the language found today in 38 C.F.R. § 3.151(a):

> A specific claim in the form prescribed by the Administrator must be filed in order for benefits to be paid to any individual …. 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. The greater benefit will be awarded, unless the claimant specifically elects the lesser benefit.

Veterans Administration, 26 Fed. Reg. 1561, 1570 (Feb. 24, 1961). Although phrased differently than

prior regulatory provisions, the text of § 3.151 preserved the VA's commitment to construing claims liberally to protect the veteran's right to the maximum benefit to which they are entitled, regardless of how they complete their form.

This is how the regulation was construed for decades. In a version of the VA's internal adjudication manual that was published in 1983, only a few years before Mr. Champagne submitted his initial claim, the agency interpreted § 3.151 as a requirement to adjudicate all "potential entitlement" to pension and compensation benefits "[i]rrespective of the items completed or the words used by the veteran [on the form submitted]." VA Manual § 21.01(d)(1).

The United States Court of Veterans Appeals (the "Veterans Court") likewise consistently recognized the VA's mandatory duty to consider all potentially viable claims under § 3.151(a). *See Kellar v. Brown*, 6 Vet. App. 157, 162 (1994) (remanding to the Board to develop and adjudicate a pension claim that should have been considered based on the veteran's claim for compensation under § 3.151(a)); *Waddell v. Brown*, 5 Vet. App. 454, 457 (1993) (same); *Ferraro v. Derwinski*, 1 Vet. App. 326, 333 (1991) (same, emphasizing the "may be considered" phrase in connection with the "will be awarded" sentence in § 3.151(a)).

Despite this long-standing interpretation, the VA and the Veterans Court took an about-face in *Stewart v. Brown*, 10 Vet. App. 15, 18 (1997). That decision asserted that the word "may" in § 3.151(a) conferred discretionary power for the VA to disregard a veteran's meritorious PTSD compensation claim by choosing to consider his application form as a pension claim only. *Id.* That decision was not appealed.

## II. Factual and Procedural Background

### A. Champagne's Marine Corps Service

Julien P. Champagne served honorably as an active duty U.S. Marine from December 1953 to December 1956. Pet. App. 4a. He fought in the Korean War, deploying to Korea and Japan. C.A. App. 18. He achieved the rank of Corporal during that time. C.A. App. 17. The Marine Corps recognized his service and sacrifice in awarding him several awards and recognitions, including the National Defense Service Medal, Korean Service Medal, United Nations Service Medal, and Good Conduct Medal. C.A. App. 17.

During his service in Korea, he contracted malaria, which, unbeknownst to him at the time, caused lasting damage to his cerebellum. Those effects began appearing in his late 20s, when he noted problems with his speech and balance. Pet. App. 42a. Over the years, his condition progressed, making it so difficult to walk, that he had to give up his business and could not find alternative employment. C.A. App. 49.

He was diagnosed with cerebellar degeneration disorder ("CDD") in 1986, Pet. App. 18a, but as is the case with many veterans suffering from service-connected disabilities, the cause of his condition was not entirely clear to him, C.A. App. 20.

### B. Mr. Champagne's Benefits Claims

In response to his CDD diagnosis, Mr. Champagne informally requested "service connection" and "monetary benefits" information from his local VA regional office in March 1987. Pet. App. 17a-18a. A few months later, he filed a formal claim using the VA's "Veteran's Application for Compensation or Pension"

(VA Form 21-526). Pet. App. 41a. As the Federal Circuit would later point out, this form "unfortunately, might be misunderstood as constituting an application for *both* pension *and* compensation benefits, regardless of how the veteran completes the form." Pet. App. 9a n.2 (emphasis in original). Like nearly all claimant-veterans at this initial stage, Mr. Champagne had no legal counsel to navigate the form.

Mr. Champagne's application listed as his disability cerebellar degenerative disorder. C.A. App. 22, 48-49. The application indicated that the disorder caused Mr. Champagne to suffer from "slurred speech [and] balance problems." Pet. App. 18a.

Based on his application and medical examinations, the VA found Mr. Champagne completely and permanently disabled, a finding that would have entitled him to substantially greater benefits in compensation than in pension. But, according to the VA, Mr. Champagne did not adequately fill out the "Veteran's Application for Compensation or Pension" to indicate his intent to apply for *both* compensation and pension. Pet. App. 41a. The VA therefore considered and awarded him only pension benefits as a wartime veteran with no meaningful income or assets.

In the VA's view, Mr. Champagne did not make a claim for compensation benefits until 1999. That year, Mr. Champagne filed a Statement in Support of Claim requesting that the VA "please consider this as a Service Connected Claim for Malaria Condition which I had obtained while in military service and any residual illnesses resulting from this disease also." C.A. App. 30. It took many years—until 2013—for the VA to finally agree with Mr. Champagne that his CDD was caused by his service-connected malaria all along.

Even after the VA recognized the service connection to his disability, it did not grant a 1987 effective date for his compensation benefits as Mr. Champagne requested. The VA insisted that the way he completed the Application for Compensation or Pension provided "no suggestion of an intention on his part to make a claim for service connected disability benefits in addition to the non-service connected pension benefits." Pet. App. 41a. The VA faulted Mr. Champagne for "complet[ing] all the requisite financial information" necessary for a claim for pension, but writing "N/A" in sections of the form relating to service-connected compensation claims. *Id.* As Mr. Champagne pointed out, and as is clear from the face of the form, these sections asked only about disabilities for which the veteran "received any treatment while in service." C.A. App. 22. Those sections therefore did not apply to Mr. Champagne because he did not receive in-service treatment for CDD.

Rejecting Mr. Champagne's explanation, the VA determined he had only applied for pension and—based solely on that conclusion—chose not to construe his claim as a claim for both compensation and pension. Citing VA regulation 38 C.F.R. § 3.151(a), the VA relied on the legal proposition that "there was no requirement for VA to consider the claim for pension as also one for compensation." Pet. App. 41a.

Mr. Champagne appealed this decision to the Veterans Court. Pet. App. 16a-17a.

### C. Appeal to Veterans Court

On appeal to the Veterans Court, Mr. Champagne argued for compensation dating back to 1987, explaining that the VA failed to consider his initial application as a claim for both pension and compensation and to award him the greater benefit as the agency was obligated to do. Pet. App. 17a.

The Veterans Court applied its prior precedent in *Stewart v. Brown*, 10 Vet. App. at 18, which held that the language of 38 C.F.R. § 3.151(a) "is permissive—not mandatory" and thus the VA may "exercise [its] discretion" in determining how to construe such claims. Pet. App. 23a.

The Veterans Court rejected Mr. Champagne's argument that even under the *Stewart v. Brown* standard, his claim for pension should also be construed as a claim for compensation. Pet. App. 22a-24a. Mr. Champagne explained that he had marked the compensation sections "N/A" because those sections asked him to list where he received medical treatment for his disability, but he had not yet received such medical treatment during his active-duty service. Pet. App. 23a. He also pointed to the fact that in March 1987 he submitted VA Form 10-7131 requesting information on "service connection" and "monetary benefits information." Pet. App. 24a.

The Veterans Court concluded that Mr. Champagne's explanations and evidence "offere[d] another way to view his claim" but did "not prove that the Board's view of his claim was clearly erroneous." Pet. App. 23a. Even though "both views of the evidence" were "plausible," the Veterans Court affirmed the

VA's decision because it had selected "one of two permissible views of the evidence." Pet. App. 23a-24a.

The *Stewart v. Brown* rule therefore foreclosed Mr. Champagne's argument that he should receive over a decade's worth of service-related disability benefits.

### D. The Federal Circuit Affirms

Mr. Champagne appealed to the Court of Appeals for the Federal Circuit, challenging the validity of *Stewart v. Brown*'s interpretation of § 3.151(a) as permitting the VA to use its discretion to determine which benefits the veteran intended to pursue. Pet. App. 3a, 8a-14a.

The Federal Circuit affirmed the Veterans Court's ruling in a precedential decision, holding that under § 3.151(a), the "VA may, but is not required to, consider a claim for pension to also include a claim for compensation, and vice versa," even when declining to do so deprives the veteran of the greater benefit for which he is eligible. Pet. App. 14a.

The Federal Circuit's interpretation began with the second sentence of the provision, which states: "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." 38 C.F.R. § 3.151(a). The Federal Circuit reasoned that "[m]ay is a permissive word, not a command." Pet. App. 10a. Inferring that the sentence solely addressed the VA's "consider[ation]," the court held that under the provision, the VA "is allowed, but not required, to consider a pension claim as a compensation claim, and vice versa." Pet. App. 10a-11a.

Going yet further, the Federal Circuit held that the flexibility granted by the regulation redounded solely

to the benefit of the VA, giving it nearly unbounded "discretion to determine that a veteran is solely seeking pension or compensation benefits." Pet. App. 14a. In the Federal Circuit's view, the VA might abuse its discretion if "the record [i]s replete with evidence showing that the veteran qualified" for both compensation and pension. Pet. App. 11a n.3.

The court rejected Mr. Champagne's contention that the third sentence contained an overriding duty to award the greater benefit that informs the meaning of the second sentence. The court reasoned that the sentence simply provides "the rule of decision for those instances *when* the VA considers both types of benefits." Pet. App. 12a (emphasis in original). Refusing to read the two sentences in harmony, the Federal Circuit held that the third "sentence does not tell the VA anything about when it *must*" consider both claims for benefits. Pet. App. 12a (emphasis in original). Although that sentence provides just one exception to the requirement to the VA's duty to award the greater benefit—that is when "the claimant *specifically elects* the lesser benefit," Pet. App. 11a-12a (emphasis added)—the court refused to draw on this exception to limit the circumstances when the VA should decline to read a claim for one type of benefit to be a claim for the other benefit (*i.e.*, when the veteran *specifically elects*), Pet App. 12a. Instead, the court construed the regulation as speaking only to the highly-unlikely scenario in which a destitute and disabled veteran applies for both compensation and pension benefits and then specifically elects the lesser monetary award at the end of a years-long VA claims process.

Finally, the Federal Circuit did not apply the veterans canon because, in its view, there was no "interpretive doubt" as to the meaning of the regulation. Pet. App. 13a-14a. The Federal Circuit reached that conclusion even after two judges noted at oral argument that "that third sentence is confusing when read in the context of the second sentence" and that the regulation was "confusing," like a "movie" "tak[ing] a plot twist" in the third sentence. Oral Arg.[3] 14:15, 19:08, 19:20.

The Federal Circuit denied rehearing. Pet. App. 2a.

## REASONS FOR GRANTING THE WRIT

This case presents an important and recurring question of veterans law. At issue is the meaning of a key regulation governing the VA's review of disability claims submitted on its ever-changing forms. Contravening the text and context of 38 C.F.R. § 3.151(a), the Federal Circuit adopted a construction that grants the VA discretion to disregard a veteran's eligibility for certain benefits based on how boxes are ticked. The ruling most harms wartime veterans who are both poor and disabled enough to qualify for more than one benefit. The Court should grant certiorari and reverse.

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[3] https://oralarguments.cafc.uscourts.gov/default.aspx?fl=23-1047_04042024.mp3.

## I. The Federal Circuit's Interpretation of § 3.151(a) Is Inconsistent with Its Text, Context, and Regulatory History.

### A. The Best Reading of § 3.151(a) Requires the VA to Maximize Benefits by Fully Developing and Adjudicating All Potential Claims for the Conditions Presented.

The construction of § 3.151(a) should be guided by text and context, so that each sentence is read 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." *Fishgold*, 328 U.S. at 285; *Henderson*, 562 U.S. at 440.

1. Start with the text. The title "Claims for disability benefits" situates § 3.151(a) within a single consolidated process for claims based on veterans' disabilities. The first sentence identifies the prerequisite to any award under that process: *i.e.*, the veteran must file a "specific claim" on "the form prescribed by the Secretary." § 3.151(a).

The second sentence promises veterans that their filing of those claims on the prescribed forms will not become a "trap for the unwary." *Acree*, 891 F.3d at 1013 (citation omitted). The sentence assures veterans that their claims will not turn on how boxes on a form are ticked or filled out. Rather, a claim by a veteran for pension "may be considered" a claim for compensation, and vice versa, so the veteran receives the full payment to which he or she is entitled. § 3.151(a).

The second sentence also commits the VA to the duties that underlie that promise, reminding the VA

of its duty to construe benefit applications sympathetically and liberally. Indeed, the second sentence plainly indicates that a veteran need *not* articulate a claim for *both* pension and compensation in order to receive the benefit of the promise in the third sentence of § 3.151(a) that the "greater benefit will be awarded." If a veteran files *only* "a claim for pension" that claim may nevertheless be construed as a "claim for compensation."

The regulation thus relieves veterans of bearing the burden of the risks associated with improperly filling out the VA's claim form to sufficiently apply for both pension and compensation. That necessarily means that the VA must fill in the gap by processing a disability claim as a claim for both pension and compensation if the veteran has a possible entitlement to both pension and compensation eligibility. The second sentence does not—as the Federal Circuit held—provide the VA with unbounded discretion to *refuse* to consider a disability claim as a claim for both compensation and pension.

The meaning of the second sentence is clarified by the third sentence of § 3.151(a). The third sentence defines the overriding duty that governs the VA's consideration of claims when a veteran may be entitled to two benefits but only one can be awarded: The veteran "will be awarded" the greater of the two benefits, unless the veteran specifically elects otherwise. § 3.151(a).

This does not mean the VA is required to conduct a compensation and pension benefits analysis in *every* case. For example, claims based solely on old age rather than a disabling condition need not be evaluated for compensation, and claims filed by veterans with no

wartime service need not be evaluated for pension. This, incidentally, explains why the regulation does not state that a claim for pension "must be" construed as a claim for compensation and vice versa.

But when potential entitlement to both compensation and pension exists because a veteran claims a disability and has wartime service, the third sentence is a specific application of the VA's duty to affirmatively assist veterans in developing all available claims, and to maximize the benefit awarded. *See* 38 U.S.C. § 5103A (statutory duty to assist); 38 C.F.R. § 3.103(a) (duty to maximize).

2. The regulatory text cannot be understood without considering its context. *Fischer v. United States*, 603 U.S. 480, 486 (2024) (The Court "consider[s] both 'the specific context' in which [a phrase] appears 'and the broader context of the [law] as a whole.'" (citation omitted)); *United States v. Hansen*, 599 U.S. 762, 775 (2023) (considering the "context of these words—the water in which they swim"). In particular, § 3.151(a) should be read in harmony with the VA's constellation of duties toward veterans.

The first is the duty to maximize benefits, which is enshrined in § 3.103(a). The VA must "assist a claimant in developing the facts pertinent to the claim and to render a decision which grants every benefit that can be supported in law while protecting the interests of the Government." This duty reflects the policy that "[t]he VA disability compensation system is not meant to be a trap for the unwary, or a stratagem to deny compensation to a veteran who has a valid claim, but who may be unaware of the various forms of compensation available to him." *Comer*, 552 F.3d at 1369.

In other words, the risk of (purported) error in filling out the claim form or of failing to apply for the correct benefits should not fall on the veteran. As the Federal Circuit recognized, the claim form Mr. Champagne used was "arguably ambiguous" and "might" "unfortunately" suggest to veterans that any completed form would cover both disability benefits. Pet. App. 9a n.2. Indeed, the form was titled: Application for Compensation or Pension.

But even in the face of obvious confusion created by the VA, the Federal Circuit left undisturbed the VA's interpretation of § 3.151(a), which squarely places the burden on disabled and destitute wartime veterans, rather than on the agency that created the trap for the unwary.

The regulation should also be read to cohere with the VA's duty to assist. The VA is bound to assist veterans in developing potential claims *before* supporting evidence is found, not after. In fact, Congress specifically enacted a statute, 38 U.S.C. § 5103A to clarify this duty and overturn earlier precedent that required veterans to establish a "well-grounded claim" before they were entitled to VA assistance. *See Paralyzed Veterans of Am. v. Sec'y of Veterans Affs.*, 345 F.3d 1334, 1339 (Fed. Cir. 2003) (discussing history and effect of § 5103A). According to the VA and Federal Circuit, however, a veteran must already have that evidence in hand and fully grasp its significance before he or she can sufficiently file a claim for both compensation and pension.

The duty to construe pro se filings sympathetically also counsels in favor of Mr. Champagne's interpretation. The VA is obligated to review claimants' submissions to "determine all claims for recovery supported

by a liberal construction" of the facts asserted in the pleading, even if the veteran does not articulate a clear request to assert those claims. *Szemraj*, 357 F.3d at 1376. It is the VA's duty to identify all potential claims that may arise from the disabilities identified by the veteran.

The veterans canon likewise should have guided the court to an interpretation of the regulation that makes sense in light of the three duties described above. The veterans canon has long served as a guidepost for ensuring that laws enacted for the benefit of veterans are construed to facilitate rather than frustrate their basic purpose. *See Henderson*, 562 U.S. at 440-441 (citing *King v. St. Vincent's Hosp.*, 502 U.S. 215, 220-221 & n.9 (1991); *Coffy v. Republic Steel Corp.*, 447 U.S. 191, 196 (1980); *Fishgold,* 328 U.S. at 285). The Court has described the canon as a "long applied" "guiding principle," and a "basic rule[] of statutory construction." *Henderson*, 562 U.S. at 441; *Alabama Power Co. v. Davis*, 431 U.S. 581, 584 (1977); *St. Vincent's Hosp.,* 502 U.S. at 220 n.9.

As this Court has explained, veterans' "legislation is to be liberally construed for the benefit of those who left private life to serve their country in its hour of great need." *Fishgold*, 328 U.S. at 285; *accord St. Vincent's Hosp.*, 502 U.S. at 220 n.9. The presumption underlying the canon has deep roots in the history of this country and its foundational principles. As in Pericles's funeral oration for fallen Athenian soldiers and Abraham Lincoln's second inaugural address as the Civil War drew to a close, statesmen have long recognized the importance and tradition of caring "for him who shall have borne the battle and for his widow and his orphan." Abraham Lincoln, Second Inaugural

Address (Mar. 4, 1865); Thucydides, *The History of the Peloponnesian War*, 129-130 (E.P. Dutton & Co., Inc. 1950). Indeed, veterans' benefits "are as old as civilization itself." James D. Ridgway, *The Splendid Isolation Revisited: Lessons from the History of Veterans' Benefits Before Judicial Review*, 3 Veterans L. Rev. 135, 137 (2011).

Those benefits are provided "at the public expense" not only as a "reward" for those who "met danger face to face" for their nation, but also to encourage "the best citizens" to do the same. Thucydides 127, 129-130. Congress is presumed to carry on this same tradition and purpose when it crafts veterans' benefits laws. The same presumptions should apply to the regulations promulgated by the VA to effectuate those laws. The fundamentally veteran-friendly context under which all veterans' benefits laws are established is an indispensable tool in discerning their best meaning.

Here, the Federal Circuit acknowledged during oral argument the alternative ways of reading the regulation at issue. *See* Oral Arg. 14:15 ("[T]hat third sentence is confusing when read in the context of the second sentence."); *id.* at 19:08, 19:20 (describing the regulation as "confusing," like a "movie" "tak[ing] a plot twist" in the third sentence); *id.* at 19:30 (suggesting that VA's interpretation requires reading a "silent clause" into the third sentence). Instead of employing all the statutory tools available to understand the initially "confusing" text, the court's decision sidestepped the canon and employed a minimal set of tools. In doing so, the court allowed the agency to undermine, through a litigation-inspired interpretation,

a fundamental protection at the first step of the benefit-adjudication process. Had the court instead taken seriously its duty "to construe the separate provisions of the [regulation] as parts of an organic whole," *Fishgold*, 328 U.S. at 285, it would have rendered an interpretation more aligned with the constellation of VA duties that define this uniquely pro-claimant system.

Accordingly, to comply with § 3.151(a)'s overall mandate, the VA must develop any claim for compensation and pension that might arise from the disabilities identified in the veteran's claim unless it is clear that only one type of benefit could apply. When doing so, the agency must consider the information presented in a claim, including *all disabilities*, regardless of how the application form is completed, unless the veteran specifically asks the VA to adjudicate only one benefit. *See* 38 C.F.R. § 3.155(d)(2) (specifying, under "Scope of claim," that the VA will consider evidence to "adjudicate entitlement to benefits *for the claimed condition*" and its "complications").

### B. History and Agency Practice Support Mr. Champagne's Interpretation.

Mr. Champagne's reading is supported by historical practice. For decades before and after promulgation of § 3.151(a), the VA recognized its duty to process all claims for which a veteran might be eligible.

When the VA issued a unified claim form in the 1930s, it made clear that the form "will be considered an application for *all disability compensation or disability pension benefits for which the veteran may be eligible*." 38 C.F.R. § 2.1026(a) (1938) (emphasis added). Later, while acknowledging that its consoli-

dated form need not be formally processed or adjudicated for both benefits in all instances, the regulation made clear that at minimum "*all disabilities*, both service connected and non-service connected *will be evaluated* and *the greater benefit awarded*." 17 Fed. Reg. at 7854-7855 (emphasis added).

The VA did not change that longstanding approach when it promulgated the current version of § 3.151(a) in 1961. The VA's own 1983 manual confirmed that "[i]rrespective of the items completed or the words used by the veteran, *if potential entitlement to either 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 confirmed that understanding in several cases, including in *Kellar v. Brown*, 6 Vet. App. 157 (1994). In *Keller*, the veteran, Mr. Keller, applied for service-connected compensation for a back condition. *Id.* at 159. He did not apply for a pension. The Veterans Court nonetheless remanded his case to the Board of Veterans claims, holding that the Board had "failed to adjudicate a claim for non-service-connected pension." *Id.* at 162. Relying on 38 C.F.R. § 3.151(a), the Veterans Court reasoned that "[s]ince [the veteran] had service during a period of war, his claim for … his service-connected condition also presented a claim for non-service-connected pension. *Id.* (citations omitted). *Keller* was not an isolated case; the Veterans Court applied this interpretation in numerous other cases as well. *E.g.*, *Waddell*, 5 Vet. App. at 457; *Ferraro*, 1 Vet. App. at 333.

The VA abruptly reversed course in 1995 when it adopted a contrary litigating position in *Stewart v.*

*Brown*. The VA's brief before the Veterans Court distinguished the prior cases because in each case "the claim was for compensation and the [Veterans] Court held it should have also been considered as a claim for pension." Gov't C.A. Br. at 11, *Stewart v. Brown*, No. 94-0622 (Vet. App. Sept. 29, 1995). But the regulation does not give preference to claims for compensation or pension. Nor did the VA's attempt to distinguish the cases on the facts provide any basis to question the legal rule applied in them. Nevertheless, the Veterans Court accepted the VA's new interpretation. *Stewart v. Brown*, 10 Vet. App. at 18.

This Court should reverse the Federal Circuit's adoption of the VA's contrary interpretation, which the VA first began advancing in the *Stewart v. Brown* litigation, years after Mr. Champagne filed his application for benefits.

### C. The Federal Circuit's Contrary Interpretation Is Deeply Flawed.

The Federal Circuit and the VA's reading of § 3.151(a) transforms the VA's affirmative duty to veterans into a wholly discretionary option. The Federal Circuit relied heavily on the word "may" in isolation to support its conferral of that broad discretion.

The court ignored all of the surrounding textual context, the VA's constellation of duties towards veterans, and the veterans canon. That approach to statutory interpretation runs contrary to this Court's recent guidance. This Court has often reminded courts of the "'fundamental principle ... of language' that 'the meaning of a word' or statement 'cannot be determined in isolation.'" *Thompson v. United States*, 604 U.S. 408, 419 (2025) (citation omitted); *see also*

*Fischer*, 603 U.S. at 486 (considering "the broader context of the statute as a whole" (citation omitted)); *Hansen*, 599 U.S. at 775 (considering "the water in which [the words] swim"); *Biden v. Nebraska*, 600 U.S. 477, 506 (2023); *Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 455 (2022).

On many occasions, this Court has rejected arguments urging it to read a single term in isolation without regard to context. For example, in *ZF Auto. US, Inc. v. Luxshare, Ltd.*, this Court refused to read the word "tribunal" "[s]tanding alone." 596 U.S. 619, 627 (2022). Rather, the Court explained that it had to consider the surrounding textual "context." *Id.* at 628 ("This is where context comes in."). This Court looked to the surrounding statutory text to determine the best meaning of the statute. In particular, the Court noted that "[t]wo words together may assume a more particular meaning than those words in isolation." *Id.* (citation omitted). Similarly here, the word "may" must be read in the context of the second and third sentences of § 3.151(a).

In addition to misreading the word "may" in § 3.151(a), the Federal Circuit drew erroneous comparisons with a neighboring provision, § 3.152, which uses the phrase "will be considered." The Federal Circuit concluded that the distinct wording in § 3.152 implies that § 3.151(a) must assign wholly discretionary power to the VA in construing a veteran's claims.

But this acontextual linguistic comparison between two such distinct sections is myopic. Section 3.152 governs the adjudication of survivor-benefit claims that are triggered when a veteran dies. In this context, the VA is required by statute to evaluate a survivor's potential eligibility for *every one* of multiple

potential benefits to present available options to the survivor. This makes sense because all of these claims are triggered by the same event, and a survivor's ability to elect any of numerous categories of benefits depends on a complex web of facts, including the veteran's eligibility for and election of benefits before death, the circumstances of the veteran's death, and the entitlements, elections, and circumstances of other survivors.[4]

By contrast, the VA is *not* required to invariably construe *every* veteran's pension claim as a compensation claim and vice versa to fulfill its obligation under § 3.151(a), even under Mr. Champagne's interpretation. The criteria triggering the compensation and pension benefits covered in § 3.151 are disparate enough that certain applications cannot give rise to both claims—*i.e.*, applications for pension based on old age or applications for compensation by a veteran with no wartime service. The VA's duty under § 3.151 is only to consider the *possible* entitlements that may arise based on the conditions identified by the veteran. But where the claimed condition on its face may trigger eligibility for both pension and compensation, the VA has no discretion to simply ignore one of those benefits.

[4] For example, under 38 U.S.C. § 1317(a), surviving children who are eligible for dependency and indemnity compensation cannot elect to receive death pension.

## II. The Question Presented Is Recurring and Is Exceptionally Important to the Most Vulnerable Veterans.

Under the Federal Circuit's decision, severely disabled veterans who filed claims without knowing the cause of their disabilities or who simply failed to fill the right boxes on a form can be deprived of life-altering amounts of benefit payments. The question presented is unquestionably important to the thousands of veterans who apply for benefits each year.

It is also frequently recurring. The outcome here is no aberration; hundreds of Veterans Court and Board of Veterans' Appeals decisions have cited *Stewart*'s reading of § 3.151 affirmed by the Federal Circuit here. *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); Board of Veterans Appeals, Docket No. 200616-146820 (June 1, 2023), https://www.va.gov/vetapp23/Files6/A23011987.txt; Board of Veterans Appeals, Docket No. 230406-336894 (May 6, 2023), https://www.va.gov/vetapp23/Files5/A23009280.txt; Board of Veterans Appeals, Docket No. 210415-153734 (July 19, 2024), https://www.va.gov/vetapp24/Files7/A24039351.txt.

If left uncorrected, this interpretation will be used to erroneously deny benefits to countless veterans in the future. Indeed, the Federal Circuit's opinion in this case is already being used to foreclose compensation benefits to wartime veterans. *See* Board of Veterans Appeals, Docket No. 19-28447 (Jan. 23, 2025), https://www.va.gov/vetapp25/Files1/25000896.txt; Board of Veterans Appeals, Docket No. 230301-327473 (Dec. 18, 2024), https://www.va.gov/vetapp24

/Files12/A24084336.txt; Board of Veterans Appeals, Docket No. 210924-187190 (Feb. 4, 2025), https://www.va.gov/vetapp25/Files2/A25009843.txt.

The harm caused by the Federal Circuit's interpretation is profound. The veterans most likely to be affected are those veterans who served during wartime but are now impoverished and too disabled to work. *See* Libby Perl, *Veterans and Homelessness*, Congressional Research Service 9 (April 2023), https://www.congress.gov/crs_external_products/RL/PDF/RL34024/RL34024.50.pdf (71% of homeless veterans report disabilities). For these veterans, the difference between compensation and pension benefits can be the difference between scraping by and rebuilding a dignified life. For Mr. Champagne, the difference amounts to hundreds of thousands of dollars—a truly life-changing amount.

The VA's interpretation denies benefits to disabled veterans who were unable to appreciate the cause of their conditions when they first applied for benefits—a common situation for veterans whose symptoms manifest only years after exposure to hazards and trauma during service. In such cases, it can take the medical community decades to piece together the connection to military service.

Take, for example, the many Vietnam War veterans who suffered disabilities caused by Agent Orange. Agent Orange, a herbicide that contains the chemical dioxin, was widely used during the Vietnam War to defoliate trees to eliminate enemy cover. For years, before judicial review was available, Agent Orange claims were met by the VA with "universal disapproval" for service-related compensation benefits due

to the "lack of a substantial, scientific consensus on the effects of Agent Orange." Ridgway 206-07, 219.

Finally in 1989, a court ordered the VA to re-adjudicate 31,000 veterans' claims that had been previously denied, and to take the effects of Agent Orange seriously as a service-connected disability. *Nehmer v. U.S. Veterans' Admin.*, 712 F. Supp. 1404, 1423 (N.D. Cal. 1989). The duties expressly recited in § 3.151(a) would allow exposed veterans whose disabilities were initially never considered for compensation to backdate their claims to their initial application for benefits. Thus, the regulation, properly understood, provides protection against "the historic difficulty of quantifying the long-term effects of service." Ridgway 219.

The lessons of the past continue to have salience today. Since September 2001, nearly 3.8 million men and women have served in the U.S. Armed Forces, and more than a third have a service-connected disability. Jonathan E. Vespa, *Those Who Served: America's Veterans From World War II to the War on Terror*, U.S. Census Bureau 2, 12 (June 2020), https://www.census.gov/content/dam/Census/library/publications/2020/demo/acs-43.pdf. Out of all veterans, post-9/11 veterans have the highest chance (43%) of having a service-connected disability than any other group of veterans. *Id.* at 11. Some argue this is due to the "distinctive tours of duty or service conditions that other cohorts did not experience." *Id.* For example, one of the distinctive service conditions that Iraq and Afghanistan veterans experienced was exposure to toxic material emanating from burn pits used for trash disposal. Chadwick J. Harper, *Give Veterans*

*the Benefit of the Doubt:* Chevron*,* Auer*, and the Veteran's Canon*, 42 Harv. J.L. & Pub. Pol'y 931, 962 (2019). However, from June 2007 through November 2018, the VA granted only 2,318 claims out of 11,581 disability compensation claims in which at least one condition related to burn pit exposure. Jennifer Steinhauer, *Congress Poised to Help Veterans Exposed to 'Burn Pits' Over Decades of War*, N.Y. Times (Feb. 12, 2019), https://nyti.ms/2UWKtlv. Roughly 54% were denied due to a lack of evidence establishing a connection to military service. *Id.*

The reality is that warfare, especially modern warfare, will bring about disabilities and conditions that the VA, the medical community, and veterans will likely have not previously understood or formally recognized as service-related. Mr. Champagne's interpretation of § 3.151(a) leaves the door open for the most disabled and destitute wartime veterans to receive the priority date of their initial disability claim to the VA even if they failed to recognize or articulate their entitlement for compensation at the time.

Mr. Champagne's interpretation of § 3.151(a) sensibly puts the risk of delay in uncovering service-connection for a disability on the VA rather than the disabled veteran. That makes perfect sense in view of the constellation of duties that the VA bears toward veterans and the VA's knowledge and expertise.

## III. This Case Presents an Ideal Vehicle to Address Both the Meaning of § 3.151(a) and the Role of the Veterans Canon After *Loper Bright*.

This case presents an ideal vehicle for the Court to address not only the meaning of § 3.151, but also

the role of the veterans canon since this Court's recent clarification that courts should be using *all* the canons of interpretation to reach the best reading of statutes and regulations, rather than looking for ambiguities in statutory or regulatory text.

1. This case is an ideal vehicle for resolving the meaning of § 3.151. The Federal Circuit articulated a clear interpretation of § 3.151(a) that renders the VA's duty to consider pension and compensation eligibility for every disability claim wholly discretionary. The holding is case dispositive for Mr. Champagne, who lost nearly two decades of compensation benefits (hundreds of thousands of dollars) for a profoundly debilitating condition that the VA concluded was service connected. The issue was exhaustively litigated before the Veterans' Court and Federal Circuit, including in a petition for rehearing en banc, which the Federal Circuit denied.

Moreover, no further percolation is possible because the Federal Circuit has exclusive jurisdiction over disputes over the meaning of veterans' benefits provisions. Thus, the circuit court's holding is binding on all future veterans' benefits cases. Future litigants are unlikely to raise the interpretation of § 3.151(a) on appeal again given the Federal Circuit's precedential decision and denial of rehearing en banc.

This Court should review the Federal Circuit's decision on this important question because it is the only court that can perform that function. Veterans' benefits law should not develop in isolation within only one circuit without attentive oversight from this Court.

2. This case is also an ideal vehicle for resolving the role of the veterans canon in the interpretation of

veterans' benefits laws now that this Court has clarified judges' obligation to independently bring to bear "all [the] interpretive tools" of construction. *Kisor*, 588 U.S. at 576; *Loper Bright*, 603 U.S. at 412.

This Court's intervention is necessary because the Federal Circuit has effectively abandoned this important tool of statutory interpretation. That error originally developed when the Federal Circuit divided over when and how the canon applies in the face of agency deference. *See Kisor v. McDonough*, 995 F.3d 1347, 1358-1359 (Fed. Cir. 2021). In trying to preserve a place for *Auer* and *Chevron* in the veterans' benefits context, a majority of the Federal Circuit came to treat the veterans canon as a tool of last resort that applies only after the court exhausts all "ordinary textual analysis tools" and deems itself left with intractable ambiguity in statutory or regulatory text. *Kisor*, 995 F.3d at 1325-1326. The Federal Circuit concluded that this type of ambiguity is a "precondition" "before consideration of the pro-veteran canon." *Id.*; *Rudisill v. McDonough*, 55 F.4th 879, 887 (Fed. Cir. 2022) (holding that the canon "plays no role" in its interpretation because "the language of the statute is unambiguous"), *rev'd and remanded*, 601 U.S. 294 (2024); *Buffington v. McDonough*, 7 F.4th 1361, 1366 n.5 (Fed. Cir. 2021) (applying *Chevron* deference while ignoring the canon by concluding the statute was unambiguously "silent").

Today, this Court's decisions in *Kisor* and *Loper Bright* have effectively eliminated the role of agency deference in the construction of veterans' benefits

laws.[5] Yet, the Federal Circuit's disfavored treatment of the veterans canon has remained a relic of this conflict with lingering effects on the system. The court has continued to condition its application of the veterans canon on an "ambiguity" threshold—a standard this Court has recognized to be unworkable. *See Loper Bright*, 603 U.S. at 408. In practice, the Federal Circuit relies on a limited set of tools of construction—*e.g.*, here, dictionary definitions and comparison to certain neighboring language—to declare the law unambiguous and thereby sidestep the canon's guidance that veterans' benefits laws be construed in the context of the broader pro-veteran system in which they operate.

This case is ideal for the Court to clarify when and how the canon applies now that deference is no longer a deciding factor. The veterans canon is an essential tool of statutory construction that should be employed alongside other interpretive tools, as exemplified in the textual analysis above, *supra* at pp. 22-24. Yet here the Federal Circuit refused to apply the canon and opted instead to settle for a minimal set of the tools devoid of context. In doing so, the court allowed the agency to undermine a fundamental protection at the first step of the benefit-adjudication process. Had the court considered the veterans canon, it would have rendered an interpretation more aligned with the constellation of VA duties that define the "singular characteristics" of a uniquely pro-claimant system. The principles embodied by the veterans canon serve to ensure that veterans do not fall into the traps of administrative red tape and "are not denied benefits

[5] The Government has not once invoked *Auer* deference before the Federal Circuit since *Kisor*.

when science moves at a slower pace than suffering." Harper, *supra* at 934.

Mr. Champagne respectfully asks this Court to step in and clarify the role of the veterans canon in statutory interpretation. Without this Court's guidance, the canon will continue to languish in the Federal Circuit—the circuit in which its role is most important.

## CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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