No. 25-6675

FILED
JAN 23 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

PAUL WRIGHT,

Petitioner,

v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Paul Wright
Petitioner pro se
115 Hugh Smith Road
Marietta, South Carolina 29661
(864) 275-7955
Paul.Wright@1979.usna.com

January 23, 2026

QUESTION PRESENTED

Is an impacted veteran entitled to judicial review of a definitive decision by the Secretary of Veterans Affairs to assert jurisdiction under 38 U.S.C. §§ 5103, 5103A or 511(a), rather than deliver disability benefits the veteran has claimed pursuant to 38 U.S.C. § 5102?

LIST OF PARTIES AND RULE 29.6 STATEMENT

Petitioner Paul Wright was Claimant-Appellant in No. 25-1502.

Respondent Douglas A. Collins, Secretary of Veterans Affairs, was Respondent-Appellee in No. 25-1502.

No publicly held corporations are involved in this proceeding.

RELATED CASES

Wright v. McDonough, United Sates Court of Appeals for the Federal Circuit, No. 25-1502

Wright v. McDonough, United States Court of Appeals for Veterans Claims, No. 25-96

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

U.S. Navy veteran Paul Wright respectfully requests the issuance of a writ of certiorari to review the decision of the United States Court of Appeals for the Federal Circuit, dated October 28, 2025.

OPINIONS BELOW

The unpublished decision of the United States Court of Appeals for the Federal Circuit in No. 25-1502, dated October 28, 2025, is Appendix A.

The unpublished decision of the United States Court of Appeals for Veterans Claims in No. 25-96, dated February 4, 2025, is Appendix B.

The unpublished decision of the Board of Veterans' Appeals, dated December 27, 2024, is Appendix C.

The unpublished decision of the United States Court of Appeals for the Federal Circuit in No. 25-1502, denying rehearing, dated December 4, 2025, is Appendix D.

STATEMENT OF JURISDICTION

The Court has jurisdiction to hear this petition pursuant to 28 U.S.C. § 1254(1). This petition is timely filed within ninety (90) days after the judgment to be reviewed.

STATUTORY PROVISIONS INVOLVED

The full texts of sections 511, 5102, 5103, 5103A, 5107 and 7261 of Title 38 are Appendix E1 through E6 respectively.

STATEMENT OF THE CASE

Mr. Wright served honorably in the U.S. Navy on active duty from April 1974 to July 1984; unrefuted record evidence substantiates his pending disability claims. The Department of Veteran Affairs (VA) withholds benefits, however, by asserting jurisdiction under 38 U.S.C. §§ 5103, 5103A and 511(a), to attack that evidence.

The most recent decision of the Board of Veterans' Appeals (Board) ordered yet another attack, despite having cited unrefuted evidence that, on its face, substantiates the claims. *See* AppxC,7-9. The Court of Appeals for Veterans Claims (Veterans Court) and the Court of Appeals for the Federal Circuit (Federal Circuit) refused to hear Mr. Wright's ensuing jurisdictional challenge, however, claiming that the Veterans Judicial Review Act of 1988 (VJRA) restricts review to appeals of final Board decisions.

This petition ensued.

REASONS FOR GRANTING THE PETITION

As *U.S. Army Corps of Engineers v. Hawkes Co.*, 578 U.S. ___ ("*Hawkes*") (2016) confirms, the Administrative Procedure Act (APA) entitles impacted parties to judicial review of definitive assertions of administrative jurisdiction from which appreciable legal consequences flow. *Hawkes* applies under the VJRA as well, because § 7261(a)(3)(C) and 5 U.S.C. § 706(2)(C) in the APA share the same operative language mandating judicial review of asserted jurisdiction. The drafters intended that the Veterans Court "shall have the same authority as it would in cases arising under the APA." S. Rep. No. 100-418, at 60 (1988).

Because there is no review of VA's assertions of jurisdiction before benefits are thus withheld, those assertions are definitive under *Hawkes*. This Court and the Federal Circuit have reported consequences that are relevant under *Hawkes*. *See Henderson v. Shinseki*, 562 U.S. 428, 432 (2011); *George v. McDonough*, 596 U.S. ____ slip op. at 7-8 (2022) (Gorsuch, J., dissenting); and *Martin v. O'Rourke*, 891 F.3d 1338, 1350- 52 (Fed. Cir. 2018) (Moore, J, concurring).

VA quantified the problem by reporting a backlog of 112,000 veterans' claims as of November 2025. The Secretary exposed an even more daunting nature and scope of consequences, in a Cabinet meeting on December 2, 2025, by reporting that VA wastes almost $3 billion by attacking veterans' evidence in mill run cases, in the same manner the Board ordered in Mr. Wright's case:

> **C&P exams, for veterans out there listening, this is the one for disability claims where they say, "Well, let me send you to a doctor to make sure." Most of the time, we have that already in the record. We're working now where those could actually be changed where we could just look at the record and not have to send them to the doctor. That's almost a $3 billion savings that we'd collect.**

Hawkes reasoned that impacted parties need not endure harsh consequences "while waiting for the [agency] to 'drop the hammer' in order for them to have their day in court." Slip op. at 9. Veterans are no less entitled to protection from the harsh consequences known to accrue from VA's assertions of jurisdiction.

By refusing to review VA's definitive assertions of jurisdiction from which those appreciable legal consequences flow, the decisions below conflict with *Hawkes* on that important question of federal law. Only this Court can resolve that conflict, by granting this petition and deciding the question presented in the affirmative.

The Secretary's report that VA attacks veterans' evidence, "to make sure," mirrors VA's brief below at page 16: "**Even if the factual evidence on one side was zero, [it is necessary for VA to] 'weigh' the other side to determine it was above zero.**" VA thus imposes on veterans the burden to overcome unsubstantiated doubt – and thereby wastes billions attacking our evidence.

As the Secretary's interpretation in 38 C.F.R. § 3.102 confirms, however, § 5107(b) prohibits VA from entertaining "suspicion or doubt." Instead, under the "approximate balance" standard, even a scintilla of positive evidence conclusively establishes a material fact unless negative evidence "persuasively" outweighs the positive. *See Lynch v. McDonough*, 21 F.4th 776, 782 (Fed. Cir. 2021). That notably veteran-favorable evidentiary standard applies to the evidence-based limits on VA's jurisdiction.

Claim substantiation under §§ 5103 and 5103A is limited to gathering evidence "not previously provided to the Secretary that is necessary to substantiate the claim"; as § 5107(b) confirms, this involves a record that is devoid of positive evidence on a specified material fact. Contrary to VA's assertion, §§ 5103 and 5103A leave no room for unsubstantiated doubt and VA's resulting waste.

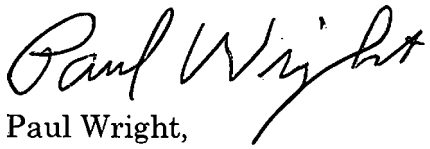
Factfinding under § 511(a) is limited to "questions of . . . fact"; as § 5107(b) confirms, this involves material evidentiary conflict. Contrary to VA's assertion, § 511(a) leaves no room for unsubstantiated doubt and VA's resulting waste.

Under those jurisdictional standards, the Board's recitation of unrefuted record evidence undeniably negates VA's asserted jurisdiction, *ab initio*.

CONCLUSION

The Court should grant this petition, and decide the question presented in the affirmative.

Very respectfully submitted, January 23, 2026



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