No. 25-735

In the Supreme Court of the United States

FLOYD D. JOHNSON,
PETITIONER,

v.

THE UNITED STATES CONGRESS,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF OF THE NATIONAL VETERANS LEGAL SERVICES PROGRAM, CONNECTICUT VETERANS LEGAL CENTER, AND SWORDS TO PLOWSHARES AS AMICI CURIAE IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Did the Veterans' Judicial Review Act strip district courts of the jurisdiction, recognized by this Court in *Johnson v. Robison*, 415 U.S. 361 (1974), to hear challenges to the constitutionality of acts of Congress affecting veterans' benefits?

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INTEREST OF AMICI CURIAE[*]

Amici curiae are national veterans' organizations. Founded in 1981, the National Veterans Legal Services Program ("NVLSP") is a nonprofit organization that works to ensure that the nation's 18 million veterans and active-duty service members have access to benefits for veterans. NVLSP does so in part by serving as a national support center that recruits, trains, and assists thousands of volunteer lawyers and veterans' advocates. For over two decades, NVLSP has published the 2,400-page Veterans Benefits Manual, the leading practice guide on the subject.

The Secretary of the Department of Veterans Affairs ("VA") has recognized NVLSP as an organization authorized to assist veterans in the preparation, presentation, and prosecution of their benefits claims. *See* 38 U.S.C. § 5902. NVLSP has represented thousands of veterans in proceedings before the VA, the Board of Veterans' Appeals ("Board" or "BVA"), and the Court of Appeals for Veterans Claims ("Veterans Court" or "CAVC"). NVLSP also has filed numerous amicus briefs in this Court (and others) in cases that present issues of broad importance to veterans and the VA benefits system.

Amicus Connecticut Veterans Legal Center ("CVLC") provides legal representation at no cost to low-income veterans and is the creator of the nation's first medical legal partnership co-located with the VA. CVLC's mission is to empower, support, and improve the

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[*]No counsel for any party authored this brief in whole or in part, and no person or entity other than amici and their counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record were provided notice of amici's intent to file this brief in compliance with Supreme Court Rule 37.2.

lives of Connecticut veterans by providing free legal assistance to help them overcome barriers to housing, healthcare, income, and recovery. As part of this work, CVLC attorneys assist veterans in VA service-connected disability claims and in applications to correct military records made to the Department of Defense ("DoD"). CVLC advocates for policy changes to create a more inclusive veterans benefits system for the most vulnerable low-income veterans: those who are living with mental illness, trauma, substance dependence, and homelessness as a result of their service, those who have experienced military sexual trauma, and those who have been harmed by discrimination or other injustices in the DoD and VA systems.

Amicus Swords to Plowshares is a community-based not-for-profit organization in San Francisco providing needs assessment and case management, employment and training, housing, and legal assistance to veterans—particularly veterans who are low-income, experiencing housing insecurity, and living with mental health conditions. Swords to Plowshares promotes and protects the rights of veterans through advocacy, public education, and partnership with local, state, and national entities, as well as direct representation of veterans before the VA and other government agencies. In its legal work, Swords to Plowshares assists hundreds of veterans each year at every level of the VA adjudicatory system to obtain both monetary disability benefits and access to healthcare.

As Petitioner explains, the text of the Veterans' Judicial Review Act ("VJRA" or "Act") demonstrates Congress did not preclude district courts from hearing facial constitutional challenges to federal statutes. Amici submit this brief to emphasize that the statutory and legislative history of the VJRA confirms the same

conclusion. Congress designed the VJRA to retain veterans' access to district courts for facial constitutional challenges, exclusively channeling challenges to certain "decision[s] of the [Secretary]" to the Veterans Court and the United States Court of Appeals for the Federal Circuit under the VJRA. Pub. L. No. 100-697, § 101(a)(1); § 223(c), 102 Stat. 4105 (1988) (codified, as amended, in various sections of 38 U.S.C.).[2]

INTRODUCTION AND SUMMARY OF ARGUMENT

This Petition raises an important question of statutory interpretation that courts have struggled with and which will have profound effects on the lives of veterans across the nation: whether the VJRA stripped federal district courts of jurisdiction to hear facial challenges to the constitutionality of veterans' benefits legislation.[3] In the decision below, the Eleventh Circuit erroneously construed the VJRA as eliminating district-court jurisdiction over such challenges. *Johnson v. United States Cong.*, 151 F.4th 1287 (11th Cir. 2025). This Court should grant certiorari to correct the erroneous decision below and establish much-needed uniformity, certainty, and fairness in courts' consideration of challenges to the constitutionality of laws affecting veterans' benefits.

As Petitioner explains, Pet. 21-26, the plain text of 38

[2] For ease of reference, decisions by the Administrator, and later by the Secretary following the elevation of the Veterans Administration to Cabinet status, are referred to as "decisions by the VA."

[3] Consistent with the Petition, amici use the term "facial" constitutional challenges to refer to claims attacking "the validity of a statute based on its inherent characteristics, not as a result of how the statute has been applied." *Elgin v. Dep't of Treasury*, 567 U.S. 1, 35 (2012) (Alito, J., dissenting).

U.S.C. § 511(a) makes clear that federal district courts retain jurisdiction over facial challenges. And as amici explain below, the statutory and legislative history of the VJRA are equally unambiguous. Congress enacted the VJRA to provide judicial review of benefits decisions from the Board of Veterans' Appeals ("BVA"), not to curtail judicial review over constitutional challenges to veterans' benefits statutes. Indeed, the VJRA specifically created the Veterans Court to "ensure that our Nation's veterans receive their day in Court." *Jefferson v. Collins*, No. 24-4929, 2025 WL 1874677, at *1 (Vet. App. July 8, 2025).

1. Following World War II and culminating after the Vietnam War, a highly contested movement for judicial review of individualized benefits decisions began. This movement was motivated at least in part by veterans inconsistent access to courts. In 1974, in *Johnson v. Robison*, 415 U.S. 361 (1974), this Court unanimously held that Congress had not barred federal courts from deciding the constitutionality of veterans' benefits legislation in 38 U.S.C. § 211, which the Court distinguished from benefits decisions by the VA.

In the wake of *Robison*, courts disagreed about whether their jurisdiction also extended to challenges regarding VA regulations or VA procedures. Then, in April 1988, months before the VJRA was passed, this Court issued its decision in *Traynor v. Turnage*, 485 U.S. 535 (1988), holding that the no-review clause formerly codified at Section 211 did not preclude review of whether a VA regulation was inconsistent with a statute applicable to all federal agencies—a decision that faced skepticism from Congress, unlike *Robison*. Ultimately, Congress passed the VJRA, which established judicial review for BVA decisions in the newly created Veterans Court, and on further appeal, the Federal Circuit.

2. Congress amended Section 211 when it passed the VJRA, but it preserved the pertinent language that this Court interpreted in *Robison* as permitting district court review of "actions challenging the constitutionality of laws providing benefits for veterans." *Robison*, 415 U.S. at 373. The no-review clause, now codified at 38 U.S.C. § 511(a), like Section 211, applies only to a "decision by" the VA made "under" a law that affects the provision of benefits.[4] Where "judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its . . . judicial interpretations as well." *Bragdon v. Abbott*, 524 U.S. 624, 645 (1998). The legislative history of the VJRA confirms that Congress ratified this Court's interpretation in *Robison*—namely, that a "decision by" the VA "under" a statute or pursuant to a VA rule or regulation is distinct from a "constitutional challenge . . . to a decision of Congress." *Robison*, 415 U.S. at 367.

3. The Eighth and Eleventh Circuits have misinterpreted the Act and effectively disregarded Congress's ratification of *Robison*, stripping veterans of a forum that Congress and the Constitution intended veterans to be able to access. After the decision below, only this Court can ensure uniformity in veterans' rights to challenge the validity of veterans' benefits legislation.

ARGUMENT

I. The VJRA Established Judicial Review for Individual Veterans' Benefits Decisions Without Curtailing

[4] The former 38 U.S.C. § 211(a) referred to laws "providing benefits for veterans," whereas the VJRA refers to laws "affect[ing] the provision of benefits." *Robison*, 415 U.S. at 367; 38 U.S.C. § 511(a). This amendment does not affect the central holding of *Robison*.

Judicial Review of Constitutional Challenges to Statutes.

A. Prior to the VJRA, Congress Prohibited Judicial Review of Decisions by the VA—But Not of Congress's Decisions.

1. In 1930, President Herbert Hoover established the Veterans Administration (the agency that preceded the United States Department of Veterans Affairs) to coordinate federal veterans' benefits programs to support the growing number of veterans following World War I. Exec. Order No. 5398; Pub. L. No. 71-536, 46 Stat. 1016 (1930).[5] In these early years, the VA operated in "splendid isolation," generally unconstrained by judicial review due to what this Court has described as no-review statutes prohibiting review of individual benefits determinations by the VA. *Brown v. Gardner*, 513 U.S. 115, 122 (1994) (citing H.R. Rep. No. 100-963 at 10 (1988) ("House Report")). Indeed, the BVA, an administrative body within the VA, retained "final authority" over claims for benefits, and the "BVA's decision [wa]s not subject to judicial review." *Walters v. Nat'l Ass'n of Radiation Survivors*, 473 U.S. 305, 307, 308-11 (1985) (outlining administrative scheme).

Although Congress modified these "no-review clauses" over the years, it retained a consistent focus on insulating decisions *by the VA* from review. *See infra* Appendix A. As this Court recognized in *Robison*, neither the text nor the primary purposes of the no-review clauses "suggest[ed] any congressional intent to preclude judicial cognizance of constitutional challenges to veterans'

[5] Given that the Department of Veterans Affairs was the successor to the original Veterans Administration, amici refer to them both as, simply, the "VA."

benefits legislation." *Robison*, 415 U.S. at 373.

2. Beginning in the 1970s, some veterans' services organizations ("VSOs")—key players in representing veterans in legislative advocacy before the federal government and in representing veterans in the benefits adjudication process—became increasingly concerned with the absence of judicial review for benefits determinations. Laurence R. Helfer, *The Politics of Judicial Structure: Creating the United States Court of Veterans Appeals*, 25 Conn. L. Rev. 155, 156 (1992) (discussing the influence of VSOs from World War II to passage of the VJRA); James D. Ridgway, *The Veterans' Judicial Review Act Twenty Years Later: Confronting the New Complexities of the Veterans Benefit System*, 66 NYU Ann. Surv. of Am. L. 251, 254-55 (2010) (describing how the VA battled significant calls for judicial review well before the VJRA).

Other VSOs, along with the VA and the House Committee on Veterans' Affairs ("House Committee") opposed judicial review of individualized claims, citing concerns regarding expertise and capacity. These stakeholders viewed the non-adversarial system for resolving disputes as beneficial to veterans. James D. Ridgway, *The Splendid Isolation Revisited: Lessons from the History of Veterans' Benefits Before Judicial Review*, 3 Veterans L. Rev. 135, 216 (2011). This disagreement set off a multi-year debate within Congress over whether to establish judicial review for VA benefits determinations. *See* 134 Cong. Rec. 31461 (1988) (statement of Sen. Murkowski) ("After working on this legislation for over 10 years—during which the Senate has passed judicial review legislation five times—I am delighted that the dedication and hard work of all those involved have at last resulted in a consensus on how to

proceed.").

Yet even as Congress considered whether to provide judicial review of benefits decisions, federal courts continued to hear facial constitutional challenges. *See, e.g.*, *Ziviak v. United States*, 411 F. Supp. 416, 419 (D. Mass. 1976) (reviewing challenge to the constitutionality of 38 U.S.C. § 3203 concerning VA benefits for hospitalized veterans), *aff'd*, 429 U.S. 801 (1976)); *Horton v. Roudebush*, 411 F. Supp. 529, 530 (N.D. Ga. 1976) (reviewing constitutional challenge to 38 U.S.C. § 101(4) concerning definition of "child"); *see also Anderson v. Veterans Admin.*, 559 F.2d 935, 937 (5th Cir. 1977) (recognizing § 211(a) as limiting jurisdiction to constitutional challenges to statutes).

Some federal courts also exercised jurisdiction over challenges to VA rules and regulations. In *Wayne State University v. Cleland*, for example, the Sixth Circuit held that Section 211, as construed in *Robison*, did not preclude challenges to the VA's authority to promulgate regulations. 590 F.2d 627, 631 (6th Cir. 1978); *see also Merged Area X (Educ.) v. Cleland*, 604 F.2d 1075, 1078 (8th Cir. 1979) (following *Wayne State* and hearing challenge to VA regulation); *Univ. of Maryland v. Cleland*, 621 F.2d 98, 101 (4th Cir. 1980) (same); *Evergreen State Coll. v. Cleland*, 621 F.2d 1002, 1008 (9th Cir. 1980) (same); *see also Marozsan v. United States*, 852 F.2d 1469, 1472 (7th Cir. 1988) (hearing challenge to VA procedures). And in April 1988, shortly before the VJRA was passed, this Court issued its decision in *Traynor v. Turnage*, holding that Section 211 did not preclude review of whether a VA regulation violated a statute applicable to all federal agencies. 485 U.S. 535, 536 (1988).

B. The VJRA Provided Judicial Review for Acts by the VA—the Act Did Not Preclude District Court Review of Facial Constitutional Claims.

In 1988, Congress resolved the longstanding debate over the appropriate amount of judicial review by passing the VJRA. Consistent with the precursor no-review clauses, Section 511 of the VJRA prohibits judicial review of "a decision by the" VA (i.e., benefits determinations based on case-specific facts). As Petitioner explains, that restriction does not mean that veterans are barred from challenging the validity of veterans' benefit statutes, which are decisions by *Congress*, in federal district courts. Indeed, the legislative history of the VJRA shows that review in federal district courts was a right to which no stakeholders objected. Insofar as members of Congress or others expressed concerns, it pertained to courts' subsequent expansion of *Robison* and the resulting inconsistency amongst courts as to the scope of Section 211 with respect to VA regulations.

1. The drafting and legislative history of the VJRA—specifically the competing bills considered alongside the Act—reveal that Congress considered and rejected proposals to expand *Robison*. Congress instead chose to enact the VJRA and provide a carefully calibrated structure of judicial review for decisions by the VA (i.e., its benefits decisions and rules and regulations). Congress did so without abrogating *Robison*.

In the 100th Congress alone, five comprehensive veterans' benefits bills were introduced by members of the Senate and House Committees on Veterans' Affairs that addressed judicial review: Senate Bill 11 (Cranston), House Bill 639 (Evans), Senate Bill 2992 (Murkowski), House Bill 5039 (Montgomery), and House Bill 5228 (Montgomery). Ultimately, following "intensive

negotiations" between the Chairmen and members of the Committees on Veterans' Affairs, Congress enacted the VJRA by passing Senate Bill 11, as modified by Senate Amendment 3726 (S. Amend. 3726, 100th Cong. (1988)). *See* 134 Cong. Rec. 31481 (statement of Sen. Murkowsi).

An Explanatory Statement "prepared by the two Veterans' Affairs Committees" was published in the *Congressional Record* shortly before the VJRA's passage. *See id.* at 31468. It reflects the unified congressional view on the intended scope of judicial review and the corresponding limits of its preclusion provision. *See id.* at 31473-81 (outlining the Senate proposal (S. 11), the House Amendment (H.R. 5288), and the "compromise agreement"). The Statement demonstrates that Congress intended to "provid[e] for judicial review of BVA decisions on the record, and of VA rules and regulations challenged in the course of a case" by the Veterans Court, "with limited appellate review in the [Federal Circuit]." *Id.* at 31477 (summarizing Title III of the VJRA). Congress believed "[r]eview of VA rules and regulations on their face, and the process by which they were issued, would be available in the CAFC under [Chapter 72] as well as through direct appeal to the CAFC." *Id.*[6] The Statement does not evince any congressional intent for facial constitutional claims to similarly be subject to review exclusively in the Federal Circuit.[7]

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[6] Chapter 72 provides the framework for the Veterans Court. *See* 38 U.S.C. §§ 7251-7299.

[7] Rather, the compromise agreement vested the Federal Circuit with jurisdiction over a veteran's challenge to the validity of a statute *only if* the statute "was germane to his claim," (i.e., it contemplated a claim before the VA). *Id.* at 31482.

2. The VJRA's extensive legislative record likewise does not reveal any congressional intent to abrogate *Robison*; instead, the record confirms that Congress meticulously tailored its new review framework to address expansions of *Robison* while leaving undisturbed the existing path for statutory constitutional challenges. In fact, the House and Senate Veterans' Affairs Committee members who negotiated the VJRA reaffirmed *Robison*. The Chairman of the House Committee, Sonny Montgomery of Mississippi, explicitly embraced this Court's decision in *Robison* in a 71-page report on the House Amendment:

> The Supreme Court properly decided that a decision not to provide benefits to conscientious objectors was a decision of the Congress, not of the Administrator, and the Court was free to examine the constitutionality of Congress' decisions . . ..
>
> The result in *Johnson v. Robison* is generally accepted as being in accord with a line of decisions stretching back to *Marbury v. Madison* which hold that the courts have a constitutional responsibility to determine whether Congressional enactments meet constitutional muster.

House Report at 19-20 (citing *Robison*, 415 U.S. at 367).

Indeed, debate over the proper scope of judicial review never questioned whether claims of constitutional violations properly belong in district court. Disabled American Veterans ("DAV"), comprised of over 1 million members and accounting for 40% of veterans submitting claims in 1985, viewed the non-adversarial process as consistent with fundamental due process rights in part

because "veterans have always been able to take to court . . . constitutional violations." *H.R. 585 and Other Bills Relating to Judicial Review of Veterans Claims: Hrg. Before the House Comm. on Veterans' Affs.*, 99th Cong., Vol. 1, 283-84, 290 (1986) ("H. Hrg. 99-52"). The General Counsel for the VA, Donald Ivers, similarly endorsed *Robison*'s interpretation of Section 211 as permitting judicial review of constitutional challenges to veterans' benefits legislation. *Judicial Review of Veterans' Affairs: Hrg. Before the H. Comm. on Veterans' Affs.*, 100th Cong. 451 (1988) ("H. Hrg. 100-60"). Mr. Ivers represented that, from a policy perspective, the VA would not object to expanding the exception "to authorize bona fide challenges to VA regulations" because the VA's "principal concern" was "with judicial review of VA benefit decisions in the Federal courts." *Id.* at 450-52.

The Judicial Conference, which makes recommendations to Congress concerning legislation involving the federal judiciary, expressed similar views. *See* H. Hrg. 99-52, at 31 (testifying that the Judicial Conference believed "judicial review should be limited to the review of constitutional issues and statutory interpretations, including the review of regulations, to see if they are beyond the authority of the agency to make" and opposed "any provision requiring judicial review of any factual determination of the V[A].").

3. Although Congress and stakeholders unanimously endorsed *Robison*, the record shows the Committee members who negotiated the VJRA viewed as problematic courts' reliance on *Robison* in interpreting Section 211 to permit review of VA regulations. Congressman Montgomery expressed concern that courts paid "too much attention to the *policy* behind the enactment of 211(a) as articulated by the Court in

Johnson v. Robison, and not enough attention to the explicit language that Congress used in isolating *decisions of the Administrator* from judicial scrutiny." House Report at 22 (emphasis added).

Senator Cranston viewed the VJRA as an opportunity to clarify the scope of the no-review clause following this Court's decision in *Traynor*, which he believed left unresolved "some important differences between the various U.S. Courts of Appeals regarding the sweep of this prohibition, particularly with regard to review of regulations." *Judicial Review Legislation: Hrg. Before the S. Comm. on Veterans' Affs. on S.11, the Proposed Veterans' Administration Adjudication Procedure and Judicial Review Act, and S. 2992, Veterans' Judicial Review Act*, 100 Cong. 7 (1988); *see also* H. Hrg. 100-60 at 451-52 (summarizing circuit split). Congressman Montgomery proposed swapping the language "under any law *administered by*" the VA in Section 211 with "under a law *affecting* the provisions of benefits." House Report at 27. He described the substantive effects of the amendment as precluding district court review of challenges to either the validity of: (1) a VA regulation (reviewed in *Wayne State*); or (2) the VA's interpretation of a VA regulation as consistent with a statute applicable to all federal agencies (reviewed in *Traynor*). *Id.*

Congressman Montgomery disclaimed any further substantive effects. *See id.* Accordingly, there is no basis to infer that Congress made additional substantive changes—such as precluding judicial review of facial constitutional challenges to statutes—sub silentio. *See, e.g.*, *Keene Corp. v. United States*, 508 U.S. 200, 209 (1993) (explaining this Court does not "presume [every] revision" in a comprehensive revision "worked a change in the underlying substantive law 'unless an intent to

make such [a] chang[e] is clearly expressed.'").

The language Congressman Montgomery proposed was ultimately amended to ensure that "the general preclusion of judicial review appl[ies] only to a *decision by* the [VA]," and codified in the VJRA. 134 Cong. Rec. 31474 (statement of Sen. Murkowski) (emphasis added).[8] Congress understood that this Court distinguished a "decision by the VA" from "a decision of Congress," *Robison*, 415 U.S. at 367; *see also Watson v. United States*, 552 U.S. 74, 82-83 (2007) (explaining that "long congressional acquiescence" of this Court's interpretations "'enhance[s] even the usual precedential force' [of this Court's] interpretation of statutes.") (citing *Shepard v. United States*, 544 U.S. 13, 23 (2005)). It retained that qualifier in the amended no-review clause precisely because Congress did not intend to abrogate *Robison*.

II. The Eleventh Circuit's Decision Below Is Inconsistent with the VJRA's Text and Legislative History.

In the decision below, the Eleventh Circuit erroneously construed the VJRA as eliminating district-court jurisdiction over facial constitutional challenges to veterans' benefits statutes. *Johnson v. United States Cong.*, 151 F.4th 1287, 1289 (11th Cir. 2025). In reaching that conclusion, the Eleventh Circuit focused on the purported absence of textual support distinguishing facial claims from as-applied constitutional claims, the Act's

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[8] *Compare* H.R. 5288, 100th Cong. § 2 (1988) ("The Administrator shall decide all questions of law and fact necessary to a decision under a law affecting the provision of benefits"), *with* VJRA, Pub. L. No. 100-687, § 101(a)(1) ("The Administrator shall decide all questions of law and fact necessary to a decision *by the Administrator* under a law that affects the provision of benefits *by the Administrator to veterans.*" (emphases added)).

amendments to the no-review clause, and the Federal Circuit's exclusive jurisdiction over legal issues reached by the VA and Veterans Court, including the validity of veterans' benefits statutes. None of those considerations supports the Eleventh Circuit's interpretation of the VJRA as abrogating *Robison*.[9]

First, the Eleventh Circuit overlooked the textual support distinguishing between as-applied and facial claims: a "decision by the Secretary" refers to the Secretary's "interpretation or application of a . . . statute [or regulation] to a particular set of facts," not to facial challenges to statutes. *Robison*, 415 U.S. at 367.

Second, there is no basis for the Eleventh Circuit's holding that the amendment to the no-review clause—i.e., expanding the clause from insulating review of VA decisions "under a law *administered by*" the VA to insulating review of VA decisions "under a law that affects" the VA's provision of benefits—somehow "foreclosed the very distinction on which *Robison* rested." *Johnson*, 151 F.4th at 1296. Section 511, like Section 211, refers to "a decision *by the [VA]*" "*under*" a law. 38 U.S.C. § 511(a) (emphasis added). And "[a] decision of law or fact 'under' a statute is made by the [VA] in the interpretation or application of a particular provision of the statute to a particular set of facts," whereas "Appellee's constitutional challenge is not to any such decision of the [VA], but rather to a decision of Congress. . . ." *Robison*, 415 U.S. at 367.

Finally, the Eleventh Circuit overlooked the limitations on the Federal Circuit's jurisdiction over

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[9] We note that the Eleventh Circuit joins the Eighth Circuit as the only courts to adopt this view. *See* Petition 14.

challenges to the validity of veterans' benefits statutes. Unlike facial challenges to the VA's rulemaking authority, which the Federal Circuit may review in the first instance under 38 U.S.C. § 502, challenges to the validity of statutes are only reviewable by the Federal Circuit *after* the Veterans Court enters a decision *if* the Veterans Court decided the issue. 38 U.S.C. § 7292(a). The Eleventh Circuit nonetheless concluded that "Congress's intent to exclude district-court jurisdiction [is] 'fairly discernible' from the Act." *Johnson*, 151 F.4th at 1293 (citing *Elgin v. Dep't of Treasury*, 567 U.S. 1, 9-10 (2012)) (alteration in original).

The VJRA's "text, structure, and purpose" does not support the view that Congress implicitly abrogated *Robison*, a decision unanimously supported by the VJRA's chief negotiators and drafters. *Elgin*, 567 U.S. at 10. As we have explained above, the legislative history of the VJRA and Congress's decision to retain the same language aimed at prohibiting judicial review of only decisions of law or fact which arise in the context of a benefits decision indicates the opposite.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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FORMER NO-REVIEW PROVISIONS

The Economy Act of 1933, ch. 3, § 5, 48 Stat. 8, 9 (1933) (current version at 38 U.S.C. § 511) provides, in relevant part:

"All ***decisions rendered by the Administrator of Veterans' Affairs*** under the provisions of this chapter, or the regulations issued pursuant thereto, shall be final and conclusive on all questions of law and fact, and no other official or court of the United States shall have jurisdiction to review by mandamus or otherwise any such decision."

The Act of October 17, 1940, ch. 893, § 11, 54 Stat. 1193, 1197 (1940) (current version at 38 U.S.C. § 511) provides, in relevant part:

"[T]he ***decisions of the Administrator of Veterans' Affairs*** on any question of law or fact concerning a claim for benefits or payments under this or any other Act administered by the Veterans' Administration shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decisions."

The Veterans' Benefits Act of 1957, Pub. L. No. 85-56, § 211, 71 Stat. 83, 92 (1957) (current version at 38 U.S.C. § 511) provides, in relevant part:

"[T]he ***decisions of the Administrator*** on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision."

The Veterans' Disability Compensation and Survivor Benefits Act of 1970, Pub. L. No. 91-376, § 8(a) (1970) (current version at 38 U.S.C. § 511) provides, in relevant part:

"[T]he ***decisions of the Administrator*** on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise."