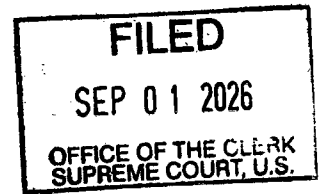


ORIGINAL

No. 26-309

In the
Supreme Court of the United States



ISRAEL CANTU,

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

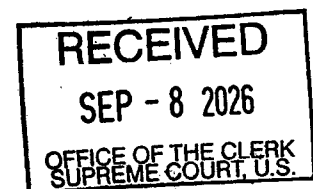
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BOSTON, MASSACHUSETTS



QUESTIONS PRESENTED

Petitioner is a veteran seeking review of proceedings concerning earlier effective dates for service-connected disabilities and the adjudication of claims remanded to the Board of Veterans' Appeals. In October 2024, the Veterans Court remanded matters involving Petitioner's claims, noting his assertion that the Board had not acted on remanded claims entitled to expedited treatment under 38 U.S.C. § 7112(a). Petitioner subsequently sought mandamus relief concerning the Board's alleged delay and compliance with the remand, including issues involving revision of decisions under 38 C.F.R. § 3.105.

The Veterans Court dismissed Petitioner's mandamus petition as moot. On June 9, 2026, the Federal Circuit dismissed his appeal for lack of jurisdiction, concluding that his arguments did not present the requisite non-frivolous legal question. Petitioner contends that the jurisdictional analysis failed to account for the October 2024 remand and the legal issues he raised concerning remand compliance, § 3.105, and the governing statutory review provisions. He further contends that these proceedings deprived him of meaningful judicial review and a fair determination of his claims.

Questions Presented

1. Whether the dismissal of a veteran's appeal for lack of jurisdiction deprived the veteran of meaningful access to judicial and administrative review under the First Amendment.
2. Whether the dismissal of a veteran's mandamus proceedings for failure to present a non-frivolous legal question violated the veteran's

rights under the First and Fifth Amendments where the proceedings involved application of 38 C.F.R. § 3.105 and compliance with a prior remand.

3. Whether a veteran has a constitutional right to a fair adjudication of a request for compliance with a prior remand when review is dismissed for failure to satisfy the jurisdictional requirements of 38 U.S.C. § 7292.

PARTIES TO THE PROCEEDINGS

Petitioner and Claimant-Appellant below

- Israel Cantu

Respondent and Respondent-Appellee below

- Douglas A. Collins,
Secretary of Veterans Affairs

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Federal Circuit

No. 2026-1301

Israel Cantu, *Claimant-Appellant* v.

Douglas A. Collins, Secretary of Veterans Affairs,
Respondent-Appellee

Final Judgment: June 9, 2026

Rehearing Denial: July 2, 2026

U.S. Court of Appeals for Veterans Claims

No. 25-5051

Israel Cantu, *Petitioner*, v. Douglas A. Collins,
Secretary of Veterans Affairs, *Respondent*.

Final Order: October 29, 2025

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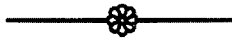
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PETITION FOR A WRIT OF CERTIORARI

Petitioner Israel Cantu respectfully petitions for a writ of certiorari to review the decision of the U.S. Court of Appeals for the Federal Circuit.



OPINIONS BELOW

The United States Court of Appeals for the Federal Circuit panel, consisting of Judges Reyna, Chen, and Stoll, entered its decision on June 9, 2026. App.1a, 5a. That judgment dismissed Mr. Cantu's appeal for lack of jurisdiction, and affirmed the decision of the U.S. Court of Appeals for Veterans Claims, dated October 29, 2025. App.7a.



JURISDICTION

The Federal Circuit entered its decision on June 9, 2026 (App.1a, 5a) and a timely filed petition for rehearing was denied on July 2, 2026. App.51a. This Court has jurisdiction under 28 U.S.C. § 1254(1).



STATUTORY AND REGULATORY PROVISIONS INVOLVED

38 U.S.C. § 7252(a)

Jurisdiction; finality of decisions

(a) The Court of Appeals for Veterans Claims shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Secretary may not seek review of any such decision. The Court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

38 U.S.C. § 7266(a)

Notice of appeal

(a) In order to obtain review by the Court of Appeals for Veterans Claims of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is issued pursuant to section 7104(e) of this title.

38 U.S.C. § 7261

Scope of review

(a) In any action brought under this chapter, the Court of Appeals for Veterans Claims, to the extent necessary to its decision and when presented, shall—

(4) in the case of a finding of material fact adverse to the claimant made in reaching a decision in a case before the Department with respect to benefits under laws admin-

istered by the Secretary, hold unlawful and set aside or reverse such finding if the finding is clearly erroneous.

**38 C.F.R. § 3.105(a)(1) —
Error in final decisions**

Final decisions will be accepted by VA as correct with respect to the evidentiary record and the law that existed at the time of the decision, in the absence of clear and unmistakable error. At any time after a decision is final, the claimant may request, or VA may initiate, review of the decision to determine if there was a clear and unmistakable error in the decision. Where evidence establishes such error, the prior decision will be reversed or amended.

§ 3.105(a)(1)(i)

Definition of clear and unmistakable error

A clear and unmistakable error is a very specific and rare kind of error. It is the kind of error, of fact or of law, that when called to the attention of later reviewers compels the conclusion, to which reasonable minds could not differ, that the result would have been manifestly different but for the error.

§ 3.105 (a)(1)(ii)

Effective date of reversed or revised decisions

For the purpose of authorizing benefits, the rating or other adjudicative decision which constitutes a reversal or revision of a prior decision on the grounds of clear and unmistakable error has the same effect as if the corrected decision had been made on the date of the reversed decision.



INTRODUCTION

Petitioner Israel Cantu seeks a writ of certiorari to review the Federal Circuit's June 9, 2026 judgment dismissing his appeal for lack of jurisdiction and its July 2, 2026 order denying rehearing. The Federal Circuit concluded that Cantu had not raised a "non-frivolous legal question" over which it could exercise jurisdiction.

The Federal Circuit recognized that it has exclusive jurisdiction to review challenges concerning "the validity or interpretation of a statute or regulation." 38 U.S.C. § 7292(c). It nevertheless concluded that Cantu's challenge to the Veterans Court's mootness determination did not present such a question. According to the Federal Circuit, the relief sought by Cantu had been provided when the Board issued its July 2025 decision, leaving his mandamus petition "no longer live."

Cantu contends that this characterization failed to address the actual legal issue presented. In October 2024, the Veterans Court vacated the Board's March 2024 decision and "remanded for further adjudication." [S.A. 14–22.] Cantu subsequently sought mandamus relief based on the Board's alleged failure to comply with that remand and the statutory requirement that remanded claims receive expedited treatment. See 38 U.S.C. § 7112(a); 38 C.F.R. § 20.902(d).

The Veterans Court later dismissed the mandamus petition as moot because the Board had issued a decision in July 2025. Cantu maintained, however, that issuance of a decision did not resolve his separate

contention that the Board had failed to comply with the prior remand and the governing statutory and regulatory requirements.

That distinction bears directly on Federal Circuit jurisdiction. Under § 7292, the Federal Circuit may review legal questions concerning the validity or interpretation of statutes and regulations relied upon by the Veterans Court. Cantu contends that his appeal presented such questions, including the legal requirements governing compliance with a Veterans Court remand and the applicability of 38 C.F.R. § 3.105 to the remanded proceedings. He therefore argues that the Federal Circuit's characterization of his petition as presenting only a moot benefits dispute omitted the statutory and regulatory questions upon which his jurisdictional argument depended.

Section 7292(d)(1) further directs the Federal Circuit to decide relevant questions of law and to set aside an interpretation of a statute or regulation that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Constitutional and statutory interpretations by the Veterans Court are reviewed de novo. See *Cook v. Principi*, 353 F.3d 937, 938 (Fed. Cir. 2002).

Cantu accordingly contends that the question before the Federal Circuit was not simply whether the Board eventually issued a decision. The question was whether the Veterans Court correctly treated the issuance of that decision as eliminating the controversy notwithstanding Cantu's asserted legal challenge concerning compliance with the prior remand and the governing statutes and regulations.

The All Writs Act authorizes the Veterans Court to issue writs of mandamus in aid of its jurisdiction. See *Cox v. West*, 149 F.3d 1360, 1363–65 (Fed. Cir. 1998). And *Vargas-Gonzalez v. Principi*, 15 Vet. App. 222, 225–30 (2001), recognized that the statutory requirement of expeditious treatment applies to the continuing adjudication of a claim following remand and imposes a nondiscretionary duty upon the Secretary. Although *Vargas-Gonzalez* ultimately denied mandamus as moot after intervening Board action provided the required treatment, Cantu contends that the July 2025 Board action did not provide the remand compliance that his petition sought.

Petitioner Israel Cantu seeks a writ of certiorari to review the Federal Circuit's June 9, 2026 judgment dismissing his appeal for lack of jurisdiction and its July 2, 2026 order denying rehearing. The Federal Circuit concluded that Cantu's arguments did not raise a "non-frivolous legal question" over which it could exercise jurisdiction.

The Federal Circuit recognized that it has exclusive jurisdiction to review challenges concerning "the validity or interpretation of a statute or regulation." 38 U.S.C. § 7292(c). It nevertheless concluded that Cantu's challenge to the Veterans Court's mootness determination did not present such a question. According to the Federal Circuit, the relief sought in Cantu's mandamus petition had been provided when the Board issued its July 2025 decision, leaving the petition "no longer live."

Cantu contends that this characterization failed to address the legal issue actually presented. In March 2024, the Board denied effective dates earlier than November 21, 2015, for his service-connected PTSD, left lower-extremity radiculopathy, and painful left-finger scar. Cantu appealed, and in October 2024 the Veterans Court set aside the Board's decision and remanded the matter for readjudication. [S.A. 14–22.] Cantu subsequently sought mandamus relief based on the Board's alleged failure to comply with that remand and the statutory requirement that remanded claims receive expedited treatment. See 38 U.S.C. § 7112(a); 38 C.F.R. § 20.902(d).

The Veterans Court dismissed the mandamus petition as moot after the Board issued a decision in July 2025. Cantu maintained, however, that the issuance of a decision did not resolve the distinct question

whether the Board had complied with the October 2024 remand and the statutory and regulatory requirements governing the remanded proceedings. His appeal therefore challenged not merely the disposition of his individual benefits claims, but the legal standards the Veterans Court applied in determining that the subsequent Board action eliminated the controversy.

That distinction is material to Federal Circuit jurisdiction. Section 7292(c) authorizes review of challenges to the validity or interpretation of statutes and regulations relied upon by the Veterans Court. In *Buchanan v. Nicholson*, 451 F.3d 1331, 1335–37 (Fed. Cir. 2006), the Federal Circuit distinguished an unreviewable challenge to factual determinations or the application of law to particular facts from a reviewable challenge concerning the interpretation of governing law. Cantu contends that his appeal falls within the latter category because it presented questions concerning the legal effect of the October 2024 remand, the governing remand-compliance requirements, and the applicability of 38 C.F.R. § 3.105 to the remanded proceedings.

The character of the Board action is likewise relevant. Federal Circuit precedent recognizes that, for purposes of veterans-court jurisdiction, a Board “decision” concerns the disposition of the benefits sought by the veteran. See *Kilpatrick v. Nicholson*, 417 F.3d 1361, 1364 (Fed. Cir. 2005). Cantu accordingly contends that the mere issuance of a document denominated a “decision” did not, without consideration of its substance, establish that the Board had performed the readjudication required by the October 2024 remand. His mandamus claim therefore turned not simply on whether the Board acted, but on

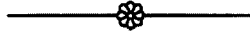
whether its action legally satisfied the obligation that was the subject of the petition.

Federal Circuit precedent concerning the finality of Veterans Court remand orders further demonstrates that the existence of a remand does not invariably foreclose appellate consideration of an otherwise reviewable legal question. Although the Federal Circuit ordinarily declines review of non-final Veterans Court remand orders, see *Adams v. Principi*, 256 F.3d 1318, 1320 (Fed. Cir. 2001), *Williams v. Principi*, 275 F.3d 1361, 1364 (Fed. Cir. 2002), recognizes an exception where the Veterans Court has made a clear and final decision of a legal issue that is separate from or governs the remand proceedings, adversely affects the party seeking review, and presents a substantial risk that the issue will not survive the remand. Cantu contends that the legal questions concerning the effect of the remand and the governing statutory and regulatory requirements were not extinguished merely because further administrative proceedings occurred.

Section 7292(d)(1) further directs the Federal Circuit to “decide all relevant questions of law” and to hold unlawful and set aside a regulation or interpretation relied upon by the Veterans Court when it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Constitutional and statutory interpretations by the Veterans Court are reviewed de novo. See *Cook v. Principi*, 353 F.3d 937, 938 (Fed. Cir. 2002). Upon such review, the Federal Circuit may affirm or, when the Veterans Court’s decision is not in accordance with law, modify, reverse, or remand the matter as appropriate. 38 U.S.C. § 7292(e)(1).

Cantu therefore contends that the jurisdictional inquiry could not end with the observation that the Board issued a decision in July 2025. The antecedent legal question was whether that action supplied the relief his mandamus petition sought—compliance with the October 2024 remand and the governing statutory and regulatory obligations—or instead left that asserted legal violation unresolved. If resolution of the Veterans Court’s mootness determination required interpretation of those statutory and regulatory obligations, Cantu contends that his appeal presented a legal question within the scope of § 7292.

That conclusion is further supported by the law governing mandamus relief in veterans proceedings. The All Writs Act authorizes the Veterans Court to issue writs of mandamus in aid of its jurisdiction. See *Cox v. West*, 149 F.3d 1360, 1363–65 (Fed. Cir. 1998). And *Vargas-Gonzalez v. Principi*, 15 Vet. App. 222, 225–30 (2001), recognized that the statutory requirement of expeditious treatment applies to the continuing adjudication of a claim following remand and imposes a nondiscretionary responsibility upon the Secretary. Although Vargas-Gonzalez ultimately denied mandamus as moot following intervening Board action, Cantu contends that his case presents the critical distinction that the July 2025 Board action did not provide the remand compliance his petition sought. Thus, the occurrence of Board action and the legal sufficiency of that action are separate inquiries, and Cantu maintains that the latter presented the non-frivolous legal question necessary for Federal Circuit review.



STATEMENT OF THE CASE

A. Overview

Pursuant to Supreme Court Justices June 15, 2022 *George v. McDonough* certiorari opinion of the court note: “The law entitles veterans who have served on active duty in the United States military to receive benefits for disabilities caused or aggravated by their military service.” *Shinseki v. Sanders*, 556 U.S. 396, 400 (2009); *see* 38 U.S.C. § 1110. A veteran seeking such benefits must first file a claim with the VA. Sec. 5101(a)(1)(A). A regional office of the VA then determines whether the veteran satisfies all legal prerequisites, including the requirement that military service caused or aggravated the disability. Sec. 511(a); *see* 38 C.F.R. sec. 3.100(a) (2021). To that end, the statute governing wartime service imposes a “[p]resumption of sound condition.” If a veteran’s disability was not noted at the time of entry into service, then the veteran is presumptively entitled to benefits unless the VA shows by a heightened burden of proof that the disability “existed before . . . and was not aggravated by such service.” 38 U.S.C. § 1111. After applying this and other statutory requirements, the regional office issues an initial decision granting or denying benefits. § 511(a), § 5104(a).

Supreme Court Justices opinion further note:

“A veteran dissatisfied with the decision may challenge it through several layers of direct review. As a general rule, the veteran may appeal within one year to the VA’s Board of

Veterans Appeals (Board) Sec. 7105(b)(1), 7104(a). If the Board also denies relief, the veteran may seek further review outside the agency. Such review was once limited to constitutional and certain statutory claims, but since 1988 Congress has generally allowed veterans 120 days to appeal any Board decision to the Court of Appeals for Veterans Claims (Veterans Court). *See, Henderson v. Shinseki*, 562 U.S. 428, 432, and n. 1 (2011), Sec.'s 7252(a), 7261(a), 7266(a). A veteran dissatisfied with that court's decision may seek review of any legal issue in the Federal Circuit and ultimately in this Supreme Court 28 U.S.C. Sec. 1254(1).

Supreme court note after its direct appeal process becomes "final and conclusive — may not be reviewed by any other official or by any court;" Still the veteran enjoys a few limited options for seeking collateral review in exceptional circumstances. *E.g.*, § 5108(a) (supplemental claim based on new and relevant evidence); § 503(a) (discretionary relief based on administrative error); § 5110(g) (increase of benefits based on subsequent liberalizing legal change).

A. Discussion

Secretary Collins - Respondent-Appellee Civil Division, Department of Justice [Nelson Kuan] Trial Attorney February 11, 2026 Informal Brief with supplemental appendix and Statement of the Case response to Cantu Informal Brief concede the following facts:

- Cantu served in the United States Army from 2004 to 2009. [SAppx.14];

- In March 2024, he appealed a March 15, 2024 decision of the Board that denied him entitlement to earlier effective date than November 21, 2025 for award of service-connection for: Post Traumatic stress disorder (PTSD), and left lower extremity radiculopathy as well as for the award of a compensable disability evaluation for a left finger scar. [SAppx17]; and [SAppx. 7-11];
- In an October 2024 decision, the Veterans Court set aside Board March, 2024 decision and remanded the matter for re-adjudication. [SAppx.14-22];

Secretary Collins - Respondent-Appellee Trial Attorney February 11, 2026 Informal Brief prejudicially misrepresent and attest: Veterans Court October, 2024 decision: "remanded Board March 15, 2024 matters for re-adjudication;" where Respondent-Appellee informal brief in contradiction attest: "In June 2025 [Cantu] filed a petition for extraordinary relief in the form of a writ of mandamus to compel the Board to "adjudicate the claims" referenced in his earlier appeal; [SAppx.1]; where Respondent-Appellee statement "adjudicate the claims" is determine contrary to Respondent-Appellee brief [SAppx.14-22] that more accurately attest: "Veterans Court set aside Board decision and remanded the matter for re-adjudication;" [actual subject matter] intertwined with Respondent-Appellee [modified] February 11, 2026 brief [on subject matter] that prejudicially attest: "Cantu appealed a March 15, 2024 decision of the Board that denied him entitlement to earlier effective date than November 21, 2025 for award of service-connection; as opposed to [denied subject matter

remand compliance 38 C.F.R. § 3.105 revision of decision] for re-adjudication of: Post Traumatic stress disorder (PTSD), and left lower extremity radiculopathy as well as for the award of a compensable disability evaluation for a left finger scar. [SAppx17]; also [SAppx.7-11].

B. Statutory Framework

CAVC Judge Bartley September 10, 2025 Order prejudicially dismissed and ultimately denied Cantu June 20, 2025 petition for extraordinary relief; where Bartley Order concede [in part]: “In October, 2024 Court remanded for re-adjudication; Petition at 1; see [*Cantu v. McDonough*, No. 24-1744, 2024 WL 4588723 (Vet. App. Oct. 28, 2024)]; where Bartley in [second part] concede: “Cantu June 20, 2025 petition for extraordinary relief request argued “Board had taken no action on the remanded claims for re-adjudication, despite the requirement that appeals remanded by the Court are entitled to expedited treatment by the Board” pursuant to 38 U.S.C. § 7112(a); 38 C.F.R. § 20.902(d) (2025).

CAVC Judge Bartley September 10, 2025 Order referred to the applicability of statutory and regulatory provisions relied on by the Veterans Court in denying Cantu petition for extraordinary relief seeking a writ of mandamus to compel the Board to adjudicate his claims on remand from Court October 2024 decision; Affirm Circuit Court Lourie, Schall, and Taranto June 9, 2026 Per Curiam dismissal for lack of jurisdiction and “Discussion” conflict with Veterans Court referral to applicability of statutory and regulatory provisions relied on by the Veterans Court in denying Cantu petition for extraordinary relief satisfying Circuit

Judges reference to *Smith v. Collins*, 130 F.4th 1337, 1343-44 (Fed. Cir. 2025) (For Court's to address a legal question presented to Court's on appeal[,] by the appellant) [t]he Veterans Court must have made a determination on a decision on a rule of law or relying on a challenged statute or regulation or its interpretation;" equally intertwined with Circuit Court "Background" that intentionally omitted precedent [*Cantu v. McDonough*, No. 24-1744, 2024 WL 4588723 (Vet. App. Oct. 28, 2024) appeal remanded for re-adjudication intertwined with 38 C.F.R. § 3.105(a) error (revision of decisions).

Some circuit courts have allowed Article III courts to review certain facial constitutional challenges to the VA's general 38 C.F.R. § 3.105 claim review procedures because a "consideration of the constitutionality of the procedures in place . . . is different than a consideration of the decisions that emanate through the course of presentation of those claims. *See, e.g., Veterans for Common Sense v. Shinseki*, 678 F.3d 1013, 1034 (9th Circuit 2012). In other words, the power of an Article III court to review an action of the VA turns on whether the reviewing court would have to evaluate the propriety of an individual veteran's benefits determination. This distinction turns on the "substance" of a plaintiff's claim rather than the labels he assigns it. *Thomas v. Principi*, 394 F.3d (D.C. Cir. 2005) at 975. Veteran may seek a declaratory judgment [absent proper legal standard] - appeal certification action or VA's general procedures undertaken by the VARO, BVA, CAVC during the adjudication of benefits claims violate veterans due process rights.

Under 38 U.S.C. 7292, the United States Court of Appeals for the Federal Circuit has jurisdiction over

an appeal from the January 2009 denial of a claim for veterans benefits when the claimant's [CUE] appeal is based on 38 C.F.R. 3.105 statutes & regulations that were not presented to, or relied upon by, the Court of Appeals for Veterans Claims. *See*; Federal Circuit [*Smith v. Brown*] 35 F.3d 1516 (Fed. Cir. Aug.12, 1994) (CUE) reversed CAVC misinterpreted § 3.105(a) rationale:

(“In no event shall findings of fact made by the Secretary or the Board be subject to trial de novo by the Court.”). The Court reviews an inquiry into the proper interpretation or application of law under the *de novo* standard of review, *See Butts v. Brown*, 5 Vet. App. 532, 539 (1993) (en bane); *see also*, *Hensley v. West*, 212 F.3d 1255, 1262-64 (Fed. Cir. 2000) (discussing proper application of de novo review). Generally, under this standard, the Court will not provide deference to the Board's conclusions of law. *Butt's*, 5 Vet. App. at 539; *cf. Id.* at 538 (reviewing the [assignment of a diagnostic code]; [effective date]; or [error] *de novo*, but applying the arbitrary and capricious standards of review). If relevant; *See, also Ledford v. Derwinski*, 3 Vet. App. 87 (1992) [diagnosis rendered on veteran's separation physical examination was incomplete] . . . *See, Evans v. Shinseki*, 25 Vet. App. 7, 16 (2011) (“[I]t is the CAVC and the Board that is required to provide . . . an [accurate] and [complete] statement of reasons or bases, and the Secretary cannot make up for the failure to do so”).

C. Statement of Issues and Omissions

The Supreme Court has cautioned “over and over again” that “[On expounding a statute, we must not be guided by a single sentence or member of a sentence, but [should] look to the provisions of the whole law . . .” *United States Nat. Bank of Oregon v. Independent Ins. Agents of Am., Inc.*, ___, U.S. ___, ___, 113 S.Ct. 2173, 2182, 124 L.Ed.2d 402 (1993) (quoting *United States v. Heirs of Boisdore*, 49 U.S. (8 How.) 113, 122, 12 LED. 1009 (1849)). “[T]he court will not merely look to a particular clause in which general words may be used, but will take in connection with it the whole statute (or statutes on the same subject) and the objects and policy of the law, as indicated by its various provisions, and give such construction as will carry into execution the will of the legislature” *Kokoszka v. Belford*, 417 U.S. 642, 650, 94 S.Ct. 2431, 2436, 41 L.Ed.2d 374 (1974) (quoting *Brown v. Duchesne*, 60 U.S. (19 How.) 183, 194, 15 L.Ed. 595 (1857); etc.; Only by such full reference to the context of the whole can the court find the plain meaning of a part. The goal is to identify “that permissible meaning which fits most logically and comfortably into the body of both previously and subsequently enacted law, etc.

Both the Veterans Court September 19, 2025 case #25-5051 single sentence Order by Allen, Bartley, and Laurer dismissed Cantu June 20, 2025 petition for extraordinary relief, Judges simply attest agreed with Secretary August 21, 2025 response brief arguing the petition as moot because the Board on July 11, 2025 issued a decision regarding the claims remanded by the court; Judges ignored Cantu August 27, 2025 opposition motion arguing petition was not moot; followed by Circuit Court June 9, 2026 appeal #20264301 Per

Curiam entered by Lourie, Schall, and Taranto prejudicially dismissed Cantu petition for writ of mandamus in the form of extraordinary relief for lack of jurisdiction: “Because the Board had ‘issued a decision’ on the claims Cantu sought adjudication of in his petition,” [judges overlooked 38 U.S.C. § 7252 Board decision either granted or denied claims on remand; or concede Board compliance with prior Court remands]; and ultimately resulted in Veterans Court error that dismissed the petition as moot; where Cantu also determine Court(s) dismissal to be contrary with Court Rules of Practice and Procedures 38 U.S.C. § 7292(b) dispute; and Article III of the U.S. Constitution case or controversy.

D. Factual Background

Review of Circuit Court June 9, 2026 Case #2026-1301 Per Curiam § “Background” attest to be intertwined with Veterans Court case #25-5051 Judge Bartley September 10, 2025 Order that dismissed Cantu June 20, 2025 petition for extraordinary relief seeking a writ of mandamus to compel Board of Veterans Appeals (Board) to adjudicate his claims for effective dates earlier than November 21, 2015 for: Post-traumatic Stress disorder (PTSD), left lower extremity radiculopathy, and a compensable disability evaluation for a painful left long finger scar; where Bartley September, 2025 Order concede: “the Court remanded in October 2024 for readjudication conclusion stated: “the March 15, 2024 Board denial decision is SET ASIDE, and the matter is remanded for readjudication consistent with this decision. Court October, 2024 “Analysis” [SAppx.021] note: “Remand of the effective date claims is warranted. *See Tucker v. West*, 11 Vet. App. 369, 374 (1998) (holding that remand

is the appropriate remedy “where the Board has incorrectly applied the law, failed to provide an adequate statement of reasons and bases for its determination, or when the record is otherwise inadequate”); intertwined with Bartley September 10, 2025 Order that attest Cantu asserted: “the Board had taken no action on the Court June 2022 remanded claims, followed by a Board November 2022 remand of issues on appeal; where Bartley attest Cantu argue despite the requirements that appeal remanded by the Court are entitled to expedited treatment by the Board; per 38 U.S.C. § 7112(a); and 38 C.F.R. § 20.902(d) (2025); where instead Bartley September 10, 2025 Order prejudicially dismissed Cantu June 20, 2025 petition for extraordinary relief based on Secretary August 21, 2025 response to Court July 23, 2025 Order that failed to satisfy Frankel test (verify facts and issues) *see* [*MacWhorter v. Derwinski*, 2 Vet. App. 655 (1992), before asking the Court to dispose of case summarily]; where Veterans Court Judge Bartley September 10, 2025 Order prejudicially agreed with Secretary response to dismiss as moot, Cantu petition.

The Supreme Court has suggested in dicta that no immunity exists for criminal acts of federal judicial officers. *See; Chandler v. Judicial Council*, 398 U.S. 74, 140 (1970). Justice Douglas in dissent noted that “[I]f [federal judges] break a law, they can be prosecuted.” *Id.* at 140 (Douglas, J., dissenting). Similarly, Justice Black in dissent stated that “judges. Like other people, can be tried, convicted, and punished for crimes” *Id.* at 141-42 (Black, J., dissenting). *See also United States v. Isaacs*, 493 F.2d 1124 (7th Cir.), cert. denied. 417 U.S. 975 (1974).

The question is not whether [prior 2022] federal article III judges are immune from criminal acts, but whether their constitutionally unique functions and duties require the protection of the impeachment process prior to indictment. *See infra* note 112 and accompanying text. The primary public concern is to oust from office judges guilty of violating the public's trust and confidence — whether such breach is criminal or not. Impeachment addresses this need.

Claimant-Appellant [Cantu] direct the Courts attention to “1st Amendment “meaningful access” is not a flexible concept. The Court’s & Secretary use of fraud, concealment of material evidence, rendering material misrepresentations and omissions, destroying relevant medical records, filing false documents with the CAVC and creating a fake, false, fraudulent [BVA decision] which they then published without any official notice to this appellant as required by VA regulation, in a continuing violation of these actions that engaged in a conspiratorial conduct, systemic and clandestine misapplication of disability regulations” all of which constitute prohibited conduct, “denied a remedy for their underlying claims” and that such remedy was “completely foreclosed” and that “it was the [joint] named defendants’ actions that have cut off [the plaintiffs’] [Cantu] entitlement to remedy from meaningful access as guaranteed by the 1st Amendment.” [Sup. Crt, *Mine Workers v. Illinois Bar Assn.*, 389 U.S. 217 (1967)].

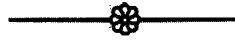


REASONS FOR GRANTING THE PETITION

This case is an ideal vehicle to decide a question of significant national importance which affect millions of veterans and their families and is inextricably intertwined with prior Supreme Court Justices [Gorsuch, Sotomayor, Breyer] *June 15, 2022* dissenting opinions in *George v. McDonough* intertwined with Justice Barrett opinion of the court [1.A] Sec. 5108(a) “relevant evidence” and § 503(a) “discretionary relief based on administrative error” . . . ”It risk insulating countless other decisions in which the Department has wrongly denied veteran benefits based on self-serving regulations inconsistent with Congress instructions. *See, e.g.,* Brief for National Veterans Legal Services Program et al. as *Amid Curiae* 15-27; Brief for Swords to Plowshares et al. as *Amid Curiae* 19-20. Veterans already face challenges enough in dealing with the Department. On average, the agency takes seven years to process their administrative appeals. *See, Brief for National Law School Veterans Clinic Consortium as Amicus Curiae* 18. Over the past five years, it seems that the Veterans Court has affirmed less than 10% percent of the agency’s decisions. *See ibid.* Internal audits have revealed massive numbers of improperly denied claims. *See id.*, at 19. Justice Gorsuch attest: “I would not add to these problems by shielding the Department from the inconvenience of having to answer for its own clear and unmistakable errors. Respectfully, I dissent.”

The First Amendment protects the rights of every American to meaningful access to the Courts to confront government wrongdoing, certainly veterans are entitled

to the same fairness and honest application of the rules of law.



CONCLUSION

For the above foregoing reasons inextricably intertwined with Judicial Misconduct Rule 10(b) Criminal Matters addressed above, clearly support beyond a reasonable doubt the petition for a writ of certiorari should be granted, and appropriate actions taken.

Respectfully submitted,

/s/ Israel Cantu

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