

No.

26-487

In the
Supreme Court of the United States

JOE PENA,

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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QUESTIONS PRESENTED

Petitioner seeks review of the dismissal of his appeal arising from proceedings concerning a veteran's disability claim and allegations of clear and unmistakable error in earlier VA rating decisions. The Court of Appeals for Veterans Claims previously remanded aspects of the matter concerning the Board of Veterans' Appeals' treatment of medical evidence, including evidence relating to a 2002 VA examination. Petitioner contends that subsequent proceedings failed to comply with those remand instructions and denied him meaningful consideration of the asserted errors.

On June 11, 2026, the Federal Circuit dismissed Petitioner's appeal for lack of jurisdiction. The court concluded that Petitioner had not presented a challenge based on the validity or interpretation of a statute or regulation within its jurisdiction under 38 U.S.C. § 7292, but instead challenged the Veterans Court's application of its procedures, its treatment of the facts, and its application of law to the particular facts of the case. Petitioner maintains that his claims presented reviewable statutory and constitutional issues and that dismissal prevented meaningful judicial review of those claims.

Questions Presented

1. Whether the dismissal of Petitioner's appeal for lack of jurisdiction deprived him of his First Amendment right of meaningful access to the courts.
2. Whether the dismissal of Petitioner's statutory and constitutional claims without judicial review violated the Due Process Clause of the Fifth Amendment.

3. Whether a veteran has a constitutional right to a fair hearing on the merits of a disability claim conducted according to fundamentally fair procedures.

PARTIES TO THE PROCEEDINGS

Petitioner and Claimant-Appellant below

- Joe Pena

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. 2026-1361

Joe Pena, *Claimant-Appellant* v. Douglas A. Collins,
Secretary of Veterans Affairs, *Respondent-Appellee*

Final Judgment: June 11, 2026

Rehearing Denial: July 2, 2026

U.S. Court of Appeals for Veterans Claims

No. 24-2579

Joe Pena, *Appellant* v. Douglas A. Collins,
Secretary of Veterans Affairs, *Appellee*

Final Decision: November 20, 2025

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Joe Pena respectfully petition for a writ of certiorari to review the decision of the U.S. Court of Appeals for the Federal Circuit.



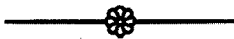
OPINIONS BELOW

The United States Court of Appeals for the Federal Circuit panel, consisting of Judges Reyna, Chen, and Stoll, entered its decision on June 11, 2026. App.1a, 6a. That judgment dismissed Mr. Pena's appeal for lack of jurisdiction, and affirmed the decision of the U.S. Court of Appeals for Veterans Claims, dated November 20, 2025. App.8a.



JURISDICTION

The Federal Circuit entered its decision on June 11, 2026 (App.1a, 6a) and a timely filed petition for rehearing was denied on July 2, 2026. App.18a. This Court has jurisdiction under 28 U.S.C. § 1254(1).



STATUTORY AND REGULATORY PROVISIONS INVOLVED

Veteran Judge Bartley prejudicial applicability of Title 38 U.S.C. § 7252(a), 7266(a), and 7261(a)(4) as set forth in these proceedings Bartley November 20, 2025 memorandum decision [Analysis] note at best Court can discern Pena argues that the April 2024 Board decision did not substantially comply with the 38 C.F.R. § 3.105 revision of decision remand directives contained in the Court's December 2018 memorandum decision. Pena's brief principally appear to assert that the Board erred in April 2024 because it did not address whether there was CUE in the January 1985 and November 2001 RO decisions, noting that the CUE allegations were inextricably intertwined with the claim seeking a higher evaluation for [permanent] hearing loss. Judge Bartley prejudicially attest the Secretary assert that the Board substantially complied with the December 2018 and March 2023 Court remands, and Bartley agreed with the Secretary.

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 administered 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

A. Overview of Decision

The Federal Circuit dismissed Mr. Pena's petition for lack of jurisdiction, stating,

"We lack jurisdiction over Pena's appeal because he fails to challenge any particular aspect of the Veterans Court's decision based on the validity or interpretation of any statute or regulation; Pena asserts that the

Veterans Court acted contrary to its Rules of Practice and Procedures and 38 U.S.C. § 7261 rules of prejudicial error. Pena appears to reargue his underlying claim that there is clear and unmistakable error [CUE] in earlier rating decisions but fails to point to any legal errors with respect to the relevant decision by the Veterans Court.

The Circuit Court also stated:

“Mr. Pena’s arguments, ultimately, relate to the Veterans Court’s discretion in enforcing procedure and “disagreements with how the facts were weighed or how the law was applied to the facts in this particular case, which we do not have jurisdiction to review.”

[. . .]

As Mr. Pena fails to allege any issues of statutory or regulatory interpretation, we lack jurisdiction over his appeal.”

B. Fundamental Error of the Circuit Court

The Circuit’s Judge conflicts with 38 U.S.C. § 7292(a) and any interpretation thereof . . . that was relied on by the Court in making the decision; and 7292(b) dispute between the Secretary and Pena Appellant; to include 38 U.S.C. § 7292(c), (d) raise genuine constitutional issue; and; § 7261 dissatisfied with court decision; Court has jurisdiction to interpret constitutional provisions to the extent presented and necessary to a decision. *See Arnesen v. Principi*, 300 F.3d 1353 (Fed. Cir. 2002) and *Mayfield v. Nicholson*, 444 F.3d 1328, 1335 (Fed. Cir. 2006), circuit court held

that a determination by the Veterans Court occurs regarding:

“whether a letter satisfied the statutory and regulatory notification requirements was a substantially factual determination of the type that should have been made by the agency in the first instance;” such as: “Inform veteran of the evidence needed to substantiate his claims; evidence RO responsible to obtain had obtained or failed to obtain and notified appellant to obtain, and to provide pertinent evidence RO failed to obtain in his possession.”

If the Court determine that it possess jurisdiction over this appeal it should concede Appellant has shown that the Veterans Court committed error with respect to a constitutional issue, a rule of law, or an issue concerning the validity or interpretation of a statute or regulation; as follow:

“Constitutional and statutory interpretations by the Veterans Court are reviewed de novo [by the Circuit Court].” *See, Cook v. Principi*, 353 F.3d 937, 938 (Fed. Cir. 2002) (*citing Santana-Venegas v. Principi*, 314 F.3d 1293, 1296 (Fed. Cir. 2002)). Upon such review, the Court may “affirm or, if the decision of the [veterans court] is not in accordance with law, . . . modify or reverse the decision of the [veterans court] or remand the matter, as appropriate.” 38 U.S.C. § 7292(e)(1).



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. § 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. § 511(a); *see* 38 C.F.R. § 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. Sec.’s 511(a), 5104(a).

Supreme Court Justices further noted:

“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) § 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), § 7252(a), § 7261(a), and § 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. § 1254(1)."

Supreme court noted that 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).

B. Discussion

Secretary Collins - Respondent-Appellee [Martin F. Hocket, Jr.] March 17, 2026 response to Circuit Court formal questions in reply to Claimant-Appellant [Pena] Veterans Court November, 2025 Judgment on appeal, where Circuit Judges June 11, 2026 per curiam Judgment attest [Pena's] informal brief primarily involved challenge with U.S. Veterans Court of Appeals [1] Affirming a decision of the Board of Veterans Appeals which denied claimant-appellant

[Rodolpho Pena] entitlement to a higher initial disability evaluation; which entailed the review of underlying agency [BVA] 2010 “finding that the 50% percent initial rating for hearing loss was proper action

Federal Circuit Judges attention is directed to standard of review set out at § 7292(d)(1). That provision commands that this court “shall decide all relevant questions of law” and “hold unlawful and set aside any regulation or any interpretation thereof . . . relied upon in the decision of the Court of Veterans Appeals” held to be, among other things, “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” . . . [Example: See Secretary Deputy Director Department of Justice [Hockey] brief (pg.11) attest: “The Veterans Court must examine the facts and the law to determine *whether the Board correctly denied relief. Here, one of the two claims challenged by [Pena] “earlier effective date claim premised on two CUE allegations regarding the January 1985 and November 2001 RO decisions,” Hockey attest “had been resolved in the Veterans Court’s March, 2023 decision, which affirmed a 2021 Board decision finding No CUE;” followed by “The November, 2025 decision on appeal to this Court, whereby the Veterans Court pointed out that the effective date claim was no longer susceptible to review;” prejudicially attest to be clearly supported by the record irrespective of what is contained in the Secretary brief, etc., etc.

C. Statutory Framework

Circuit Court Judges Reyna, Chen, & Stoll overlooked applicability of Circuit Judge Clevenger decision in *Smith v. Brown*, 35 F.3d 1516 (Fed. Cir. 1994) “The only issue in this appeal is whether § 3.105(a)

[revision of decisions] subjects the otherwise final Board decisions to review for CUE and, if so, whether the regulation is unlawful for conflict with the statutes governing the finality of Board decisions”]. This is a question of legal interpretation Circuit Court review de novo. *Prenzler v. Derwinski*, 928 F.2d 393, 393 (Fed. Cir. 1991) applying the two-step test articulated in *Chevron USA Inc. v. National Resources Defense Council*, 467 US 837, 842-43, 866, 104 S. Ct. 2778, 2781-82, 2793, 81 L.Ed.2d 694 (1984), because our review of Veterans Court Judgments entails the review of underlying agency actions. Circuit Judges Reyna, Chen, & Stoll attention is directed to Clevenger decision that concluded: “Neither the Secretary nor this court has any power to contradict, under the guise of “interpretation,” a valid regulation. See *Estate of Cowart*, ___ U.S. at ___, 112 S. Ct. at 2594; *Dimension Financial*, 475 U.S. at 368, 106 S.Ct. at 685-86; *Maryland Casualty Co. v. United States*, 251 U.S. 342, 349, 40 S.Ct. 155, 157-58, 64 L. Ed. 297 (1920) (valid § 3.105(a) [revision of decisions] regulations have the full force and effect of statute law).

Circuit Court Judges Reyna, Chen, & Stoll “Discussion” asserts:

“Mr. Pena appears to re-argue his underlying claim that there is clear and unmistakable error in earlier rating decisions but fails to point to any legal errors with respect to the relevant decision by the Veterans Court; [Pena note] is easily remedied as follow:

D. Statement of Issues and Omissions

Veterans Court Judge Bartley November 20, 2025 memorandum decision resorted to false and

fraudulent single judge disposition of Joe Pena April 2, 2024 Board of Veterans Appeal (Board) appeal that denied entitlement to an initial disability evaluation higher than 50% percent for bilateral hearing loss; violated Pena's Fifth Amendment due process rights by conspiring to "defraud" him out of the opportunity to have his April 2, 2024 [Appeal] claim for additional benefits properly adjudicated as follows:

"... the Court will affirm the April 2024 Board decision; and attest: "the Board relying on the August 2023 VA opinion, denied an initial evaluation higher than 50%. R. at 3-10."

Veterans Court Judge Bartley further notes:

"In a March 2023 memorandum decision, the Court affirmed the Board's denial of an earlier effective date for hearing loss and specifically conclude[d] that the Board's determination that there was no [CUE] in either [the January 1985 or November 2001] rating decisions was not arbitrary, capricious, or an abuse of discretion." [R. at 271]; However, the Court concluded that the Board failed to provide adequate reasons or bases for denying an evaluation higher than 50% because it found that Board rendered an unsubstantiated medical opinion regarding the import of the 2002 hearing test results. [R at 271-72].

Judge Bartley November 20, 2025 [page 5-6] memorandum decision resorted to the following false and fraudulent single judge disposition [below] concerning Claimant-Appellant Joe Pena's April 2, 2024 Board of Veterans Appeal (Board) appeal that denied [Pena]

entitlement to an initial disability evaluation higher than 50% percent for bilateral hearing loss; as follow:

Veterans Court Judge Bartley [prejudicial] memorandum decision [Analysis] violated Pena's Fifth Amendment due process rights — where Bartley attests:

“Following the March 2023 Court remand ordering the Board to reply on independent medical evidence when addressing the 2002 VA examination results, the Board obtained, and relied upon a VA medical opinion discussing those results. [R.at 5-6 see R. at 163] thus Pena fails to show how the Board did not comply with the Court's previous remands;” Judge Bartley decision resorted to false and fraudulent testimony “obtained medical results” contradicted by Department of Justice Deputy Director [Martin F. Hockey, Jr.] Factual Background [page 2 & 4] [March 2, 2026] Circuit Court brief testimony:

“Rodolpho Pena died on September 2012 and his surviving spouse was substituted into the claim.”

“However, the court remanded the increased rating claim premised on the 2002 medical examination for a reason and bases error, finding that the Board's holding concerning that 2002 examination constituted an unsubstantiated medical opinion vis-a-vis the 2010 medical opinion, *i.e.*, the Board failed to explain how it possessed the medical knowledge to determine that Rodolpho Pena's hearing loss improved, as a comparison of

the 2010 and 2002 examination suggested.
[SAppx38]

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 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.

E. Factual Background

Respondent Appellee Department of Justice Deputy Director [Martin F. Hockey, Jr.] March 2, 2026 Circuit Court brief response Factual Background and Prior Proceeding [page 1-2] concede the following Claimant-Appellant [Rodolpho Pena] claim history: “Mr. Rodolpho Pena, claimant-appellant Joe Pena’s father, served in the United States Marine Corps from January 1954 to January 1957. [SAppx.1] In January 2010, Rodolpho Pena sought service-connection for bilateral hearing loss, which was granted in a November 2010

regional office (RO) decision with an initial rating of 50% percent and an effective date of January 29, 2010, the date of his claim. [SAppx.1] Within the one year time to appeal to the Board of Veterans' Appeals (board), Rodolpho Pena submitted a notice of disagreement in which he asserted [CUE] clear and unmistakable error in assigning the 50% percent rating and January 29, 2010 effective date. *Id.* Rodolpho Pena died in September 2012 and his surviving spouse Jovita Pena substituted into the claim. *Id.*

Respondent Appellee Department of Justice Deputy Director [Martin F. Hockey, Jr.] Court brief response Factual Background and Prior Proceeding [page 2] confirmed the following:

"In December 2018, the Veterans Court following the suggestion of the Secretary, remanded the [CUE] holding to the Board, noting that although Rodolpho Pena had timely appealed the 2010 RO decision, his [CUE] 38 C.F.R. § 3.105 [revision of decision] allegations may have been directed at earlier claim denials from January 1985 and November 2001, as opposed to the 2010 decision on appeal and so could support an earlier effective date. [SAppx.71]

Respondent Appellee Department of Justice Deputy Director [Martin F. Hockey, Jr.] Court brief response further attest: "The court further found that a reasons and bases remand was required vis-à-vis the 50% percent rating, as the Board failed to adequately explain whether the veteran's vertigo and otalgia symptoms were part of the hearing loss disability and whether a February 2002 VA audiological examination was considered. [SAppx.71-72]

Respondent Appellee Department of Justice Deputy Director [Martin F. Hockey, Jr.] response brief failed to concede error under 38 U.S.C. 7292, the United States Court of Appeals for the Federal Circuit has jurisdiction over an appeal from the 1970 denial of a claim for veterans benefits when the claimant's [CUE] appeal is based on 38 C.F.R. 3.105 [revision of decisions] 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 banc); *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 & 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").

The best known power of the Supreme Court is judicial review, or the ability of the Court to declare a Legislative or Executive act in violation of the Constitution, is not found within the text of the Constitution itself. The Court established this doctrine in the case of *Marbury v. Madison*, (1803) “[w]hen an attorney [or judge] misrepresents or omits material fact to the court, or acts on a client’s [Appellee attorney, or CAVC Judge] perjury or distortion of evidence, [his or her] conduct may constitute a fraud on the court.” Rule 3.3. Candor Toward The Tribunal.

Claimant-Appellant [Pena] 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’] [Pena’s] entitlement to remedy from meaningful access as guaranteed by the 1st Amendment.” *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 [I.A] § 5108(a) new and material evidence as follow:

“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 *Amici Curiae* 15-27; Brief for Swords to Plowshares et al. as *Amici 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 not addressed above but clearly supported by the record beyond a reasonable doubt, the petition for a writ of certiorari should be granted, and appropriate actions taken.

Respectfully submitted,

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