

23-713 BUFKIN V. McDONOUGH

DECISION BELOW: 75 F.4th 1368

LOWER COURT CASE NUMBER: 2022-1089

QUESTION PRESENTED:

For more than a century, veterans have been entitled to the benefit of the doubt on any close issue relating to their eligibility for service-related benefits. As presently codified, "[w]hen there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary [of Veterans Affairs] shall give the benefit of the doubt to the claimant." 38 U.S.C. § 5107(b).

In 2002, Congress enacted the Veterans Benefits Act. Among other things, the Act supplemented the responsibilities of the U.S. Court of Appeals for Veterans Claims (the "Veterans Court") by requiring it to "take due account of the Secretary's application of section 5107(b)" as part of its review of benefits appeals. 38 U.S.C. § 7261(b)(1).

In these cases, the Federal Circuit held that § 7261(b)(1) "does not require the Veterans Court to conduct any review of the benefit of the doubt issue beyond the clear error review" of underlying factual findings - something already required by the pre-2002 review statute, under 38 U.S.C. § 7261(a). Pet. App. 16a-17a (quoting Pet. App. 8a-11a).

The question presented is: Must the Veterans Court ensure that the benefit-of-the-doubt rule was properly applied during the claims process in order to satisfy 38 U.S.C. § 7261(b)(1), which directs the Veterans Court to "take due account" of VA's application of that rule?

CERT. GRANTED 4/29/2024