AN INTRODUCTION TO VETERANS LAW: SERVING THOSE WHO SERVED US

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Executive Summary: The Federal Circuit is a court of appeals with exclusive jurisdiction over several important subjects, including veterans law. Veterans law mainly encompasses monetary disputes against the government for benefits owed to veterans and their families following their service to the United States. These disputes invariably come up when a veteran or their family member is denied a benefit promised to eligible veterans, like a disability pension for veterans injured in connection with military service. Three pressing veterans law issues are (1) the Court of Appeals for Veterans Claims' newfound ability to certify class actions, (2) the Veterans Appeals Improvement and Modernization Act, and (3) the newfound reviewability of eligibility determinations under the Caregiver Program by the Board of Veterans Appeals. Veterans law is grounded in our desire to repay those who served our nation while ensuring that only legitimate claims are fulfilled. The foundational elements of veterans law are rooted in administrative law and the need for judicial review over agency decisions.

I. INTRODUCTION

Veterans law governs the adjudication of veterans benefits claims; it is "the creature of a robust federal statutory and regulatory scheme."[1] Before the creation of the Veterans Administration, in 1930, Congress and States provided various benefits to veterans.[2] Today, the Department of Veterans Affairs (VA) oversees and administers veterans benefits regulated under Title 38 of the United States Code.[3] Once a veteran is discharged from active military service, they and their family become eligible for various benefits, including health care, compensation and pension, education and training, home loans, insurance, vocational rehabilitation and employment, burial and memorial services, and a variety of fiduciary services.[4]

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[1] Angela Drake, Yelena Duterte, & Stacey-Rae Simcox, *Review of Recent Veterans Law Decisions of the Federal Circuit*, 69 AM. U. L. REV. 1343, 1345 (2020).

[2] *Court History*, U.S. COURT OF APPEALS FOR VETERANS CLAIMS, http:/www.uscourts.cavc.gov/history.php (last visited Oct. 18, 2026). For a history of veterans' benefits in the United States see James D. Ridgway, *The Splendid Isolation Revisited: Lessons from the History of Veterans' Benefits Before Judicial Review*, 3 VETERANS L. REV. 135 (2011).

[3] 38 U.S.C. § 301. *Department of Veterans Affairs Act Signed 27 Years Ago*, VA NEWS (Oct. 25, 2015), https://news.va.gov/23584/department-veterans-affairs-act-signed-27-years-ago/ (explaining the creation of the Department of Veteran's Affairs in 1988 as the fifteenth Cabinet department).

[4] Title 38 of the Code of Federal Regulations defines a veteran as "a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable"; *see Office of Public and Intergovernmental Affairs*, U.S. DEP'T OF VETERANS AFFS. (Mar. 8, 2023), https:/www.va.gov/opa/persona/index.asp (explaining that active service means "full-time service, other than active duty for training, as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or as a commissioned officer of the Public Health Service, Environmental Science Services Administration or National Oceanic and Atmospheric Administration"). Also, note that those service members who are dishonorably discharged are not eligible for benefits. *Id.*

A. *Veterans Benefits Claims*

Veterans, or certain family members, must apply for benefits at their local VA office, online, via mail, or with assistance for consideration.[5] Upon receipt of the benefits application, the VA reviews the applicant's claim and either accepts or denies it.[6] When a local VA office denies an applicant's claim, the claimant may appeal directly to the Board of Veterans' Appeals (BVA or Board,) kicking off a uniquely deferential appeals process.[7]

The BVA is the highest appellate offered within the VA, and it is comprised of a Chairman, a Vice Chairman, and Veterans Law Judges (VLJs).[8] The BVA does not have a set number of judges; the number of judges varies based on the volume of appeals.[9] Once the BVA reviews the appeal, a single VLJ issues a final decision.[10] If a claimant does not agree with the BVA's decision, they may begin the appeals process by timely filing a notice of appeal with the U.S. Court of Appeals for Veterans Claims (CAVC).[11]

The CAVC is comprised of seven permanent judges and two additional judges, all of whom serve fifteen-year terms.[12] A panel of three judges hears appeals from the BVA, during which the CAVC reviews the BVA's decision, the written record, and the parties' briefs.[13] After the CAVC issues its judgment, a party has sixty days to appeal the decision to the United States Court of Appeals for the Federal Circuit.[14]

The Federal Circuit reviews questions of law; thus, claimants or the government generally only appeal CAVC decisions when they believe that the CAVC has made a legal error.[15] The Federal Circuit may review the CAVC's factual findings in limited circumstances when the case presents a constitutional issue.[16] Given the limited jurisdiction, few veterans law cases

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[5] Chris Czaplak, *Applying for Veterans Benefits: Your Quick Guide*, HOMEFRONT GRP. (May 17, 2025), https://www.homefrontgroup.com/applying-for-veterans-benefits/.

[6] *Id.*

[7] *See* Drake et al., *supra* note 1, at 1345 n.4 (quoting Henderson v. Shinseki, 562 U.S. 428, 440 (2011)) (explaining that the VA must assist veterans in developing evidence to support their claims); *see also* Gilbert v. Derwinski, 1 Vet. App. 49, 53 (1990) (explaining that veterans are entitled to the "benefit of the doubt" standard proof when there is a balance of positive and negative evidence. 38 U.S.C. § 3007(b) provides this unique standard of proof to veterans). *See* Jones v. Shinseki, 23 Vet. App. 382, 388 (2010) (explaining that "benefit of the doubt" standard is met standard is met when a physician determines that it is "at least as likely as not" that a nexus exists between an in-service injury and the veteran's current disability). The BVA reviews claims *de novo*. *Henderson*, 562 U.S. at 440–41.

[8] DANIEL T. SHEDD, CONG. RSCH. SERV., IF12680, THE BOARD OF VETERANS' APPEALS: A BRIEF INTRODUCTION 1 (Jun. 4, 2024); *Board of Veterans' Appeals: Board of Veterans' Appeals – Board Hearing Overview,* U.S. DEP'T OF VETERANS AFFS. (May 14, 2026), https:/www.bva.va.gov/index.asp; *see* SHEDD, *supra* note 8, at 1.

[9] *Board Appeals*, U.S. DEP'T OF VETERANS AFFS. (July 31, 2025), https://www.va.gov/decision-reviews/board-appeal.

[10] *Id.*

[11] *See Court Process*, U.S. COURT OF APPEALS FOR VETERANS CLAIMS, https://www.uscourts.cavc.gov /court_process.php (last visited Oct.1, 2026) (explaining that veterans must file a notice of appeal to the CAVC within 120 days of the BVA's decision).

[12] JONATHAN M. GAFFNEY, CONG. RSCH. SERV., IF11365, U.S. COURT OF APPEALS FOR VETERANS CLAIMS: A BRIEF INTRODUCTION 1 (Sep. 16, 2026), https://www.congress.gov/crs-product/IF11365.

[13] *Id.* However, most of the cases that reach the CAVC are non-precedential; single judges, as opposed to a panel of three judges, resolve these non-precedential cases. *Id.*

[14] *Id.*

[15] *Id.* (explaining that either a claimant or the government may appeal the CAVC decision to the Federal Circuit).

[16] *Id.*

reach the Federal Circuit.[17] When a party does not agree with the Federal Circuit's decision, it can appeal to the Supreme Court.[18]

B. *Brief History of the Veterans Affairs System*

Until 1988, the VA operated virtually free of any judicial oversight.[19] Under this system, when the VA denied a veteran's claim, the veteran had no right to challenge the decision.[20] However, in 1988, President Ronald Reagan signed the Veterans Judicial Review Act[21] (VJRA) thereby establishing the U.S. Court of Veterans Appeals—finally providing claimants an avenue to appeal claims that the VA denied.[22] Congress changed the court's name in 1999 to the U.S. Court of Appeals for Veterans Claims.[23] This Article I court is wholly separate from the VA and has exclusive jurisdiction to review the decisions of VA-contained Board of Veterans Appeals (BVA).[24] In addition to passing the VJRA, Congress passed 38 U.S.C. § 511 which contained several exceptions for the new review system, while still maintaining the finality principle present in 38 U.S.C. § 211.

C. *Impact of the Veterans Judicial Review Act*

The VJRA demonstrates Congress's objective to expand judicial review for veterans' claims beyond the pre-1988 system and to insulate Article III courts from the heavy volume of benefits adjudications that would result from expanding the scope of judicial review for these claims.[25] While the VJRA and Section 511 are generally thought of as necessary reforms for the veterans' claims system, the reforms' passage inherently impact veterans' ability to assert their rights in Article III courts.[26]

Under the VJRA, veterans cannot file claims directly in federal district courts or regional courts of appeals.[27] Instead, veterans must follow the process laid out in the statute.[28] The statute sharply limits access to Article III trial courts and instead mandates that veterans bring their claims to CAVC, an Article I court with specialized but much narrower powers.[29] Moreover, the language of 38 U.S.C. § 511 makes it clear that the Secretary's decisions on benefits are "final and conclusive" and bars "any court" from reviewing them, except through

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[17] *Types of Cases the Federal Circuit Handles*, U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT (Oct. 15, 2026, at 13:40 UTC), https://www.cafc.uscourts.gov/home/the-court/about-the-court/federal-circuit-case-types/. In 2025, filings in the U.S. Court of Appeals for Veterans Claims fell 17%, with a reduction of 27 appeals. *Federal Judicial Caseload Statistics 2025*, U.S. COURTS (Mar. 31, 2025) https://www.uscourts.gov/data-news/reports/statistical-reports/federal-judicial-caseload-statistics/federal-judicial-caseload-statistics-2025.

[18] *See Court Process*, *supra* note 11.

[19] *See* Ridgway, *supra* note 2, at 136.

[20] *Id.*

[21] Pub. L. No. 100-687, 102 Stat. 4107 (1988) (codified as amended at 38 U.S.C. § 7101).

[22] *See Court History*, *supra* note 2 (noting that the CAVC is an Article I court).

[23] *See id.* (explaining that the name change resulted largely from an influx of post-Vietnam claims in the 1970s and 1980s).

[24] *See* GAFFNEY, *supra* note 12, at 2; 38 U.S.C. § 7252(a).

[25] Pub. L. No. 100-687, § 101, 102 Stat. 4105 (1988).

[26] Dana Montalto, *"Necessary" Jurisdiction: Veterans' Rights in Article III Courts*, 75 AM. U. L. REV. 985, 989 (2026).

[27] Pub. L. No. 100-687, § 101, 102 Stat. 4105 (1988).

[28] *Id.*

[29] *Id.*

the specialized process found in the VJRA.[30] Together, the VJRA and Section 511 drastically limit the ability for veterans to assert their rights in Article III courts. Consequently, veterans face a narrower set of remedies than other federal claimants around issues related to due process and equal protection. Veterans cannot seek damages or broad equitable relief in Article III courts for benefits-related harms.[31] In practice, the VJRA and Section 511 serve to channel disputes related to VA decisions or practices away from Article III Courts and into the specialized system set up by the VJRA.[32] If a claim is able to somehow still reach an Article III Court, the scope of review for Article III courts is limited to narrow constitutional questions only.

II. THREE KEY VETERANS LAW CHANGES

A. *Class Action*

First, in 2017, the Federal Circuit and Congress revolutionized the veterans benefits process by authorizing the CAVC to certify class actions.[33] In April 2017, the Federal Circuit decided *Monk v. Shulkin*.[34] After the VA denied his application for disability benefits because of his other-than-honorable discharge, Mr. Monk filed a petition for a writ of mandamus with the CAVC, requesting that the CAVC order the Secretary of the VA to "promptly adjudicate both his disability benefits application and the applications of similarly situated veterans."[35] The CAVC denied both Mr. Monk's request for class certification and his petition.[36] The CAVC rejected the class action request because it lacked the authority to maintain class actions.[37] The Federal Circuit reversed on appeal, holding that the All Writs Act[38] authorized the CAVC to aggregate cases, including Mr. Monk's, which concerned a petition for a writ of mandamus.[39] Since *Monk*, the CAVC has certified several class actions.[40] Until the CAVC adopts its own class action rules and procedures, the CAVC has opted to use Rule 23 of the Federal Rules of Civil Procedure as a guide for class action proceedings.[41] This new class action process provides veterans and their surviving family members with more choices on how to handle disagreements with VA decisions.[42]

Then, in 2022, the Federal Circuit placed limits on the CAVC's jurisdiction to certify classes when it decided *Skaar v. McDonough*.[43] The board denied Mr. Skaar's claim that his blood disorder was connected with radiation exposure from a cleanup after a nuclear-armed

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[30] 38 U.S.C. § 511(a).
[31] Pub. L. No. 100-687, 102 Stat. 4105 (1988).
[32] *See* Montalto, *supra* note 26, at 991.
[33] *See generally* Max W. Yarus, *The Uncharted Waters of Veterans Class Actions*, 9 STETSON J. ADVOC. & L. 115 (2022) (explaining the evolution of class action in the CAVC).
[34] 855 F.3d 1312 (Fed. Cir. 2017).
[35] *Id.* at 1314.
[36] *Id.* at 1315.
[37] *Id.* (explaining that at Mr. Monk's decision review hearing, the VA informed Mr. Monk that he could not move forward with his appeal until the BCNR provided records concerning his discharge status).
[38] 28 U.S.C. § 1651(a).
[39] *Monk*, 855 F.3d at 1318.
[40] *See, e.g.,* Godsey v. Wilkie, 31 Vet. App. 207 (2019) (per curiam) (the CAVC's first certified class action).
[41] Monk v. Wilkie, 30 Vet. App. 167, 170–71 (2018) (en banc).
[42] *Monk*, 835 F.3d at 1321.
[43] 48 F.4th 1323 (Fed. Cir. 2022).

bomber crashed in Palomares, Spain.[44] The CAVC certified a class consisting of Mr. Skaar as the class representative and other members who had not filed a claim or had filed a claim and had not yet reached a Board decision.[45] The Federal Circuit held that the CAVC lacked jurisdiction over the class members who had not yet received a Board decision.[46]

B. *Veteran Appeals Improvement and Modernization Act (AMA)*

Second, in August 2017, Congress passed the Veteran Appeals Improvement and Modernization Act[47] (AMA). The rules that the VA promulgated to implement the AMA took effect in February 2019.[48] The AMA, in part, created a new decision review process before the agency consisting of three different "lanes" of review: Higher-level review, supplemental claims, and appeal to the BVA.[49] Under higher-level review, claimants cannot submit additional evidence, there is only an argument.[50] In supplemental claims, claimants may submit evidence that is new and relevant.[51] In the appeals lane, veterans proceed directly to the Board of Veterans Appeals for *de novo* review; once at the Board, appellants may submit evidence in the hearing and evidence dockets but not in the direct docket.[52]

C. *Caregivers Program*

Third, in April 2021, the CAVC changed the appeals process for the Caregivers Program.[53] The program provides VA benefits to the caretakers of disabled veterans who are unable to perform at least one activity of daily living or who require constant supervision because of an impairment.[54] Maya Beaudette, wife of disabled veteran Jeremy Beaudette, was denied caregiver benefits upon reassessment in 2018. The couple attempted to appeal the decision to the Board, and it replied that it had no jurisdiction to review decisions under the Caregivers Program.[55] In 2020, the Beaudettes petitioned the CAVC for a writ of mandamus to allow them to appeal the decision to the Board.[56] The court ruled that VA decisions to deny benefits under the Caregivers Program can be reviewed by the Board and, if need be, judicially reviewed.[57] The Secretary appealed the CAVC's decision.[58]

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[44] *Id.* at 1326–27.

[45] *Id.* at 1331–32. For further discussion on the impact of the *Skaar* decision see Sydney L. Wagner, *Settling Skaar: The End of Class Actions and the Need for New Mass Adjudication of Veteran Claims for Disability Compensation*, 110 IOWA L. REV. 945 (2025).

[46] *Id.*

[47] Pub. L. No. 115-55, 131 Stat. 1105 (2017).

[48] VA Claims and Appeals Modernization, 84 Fed. Reg. 138 (Jan. 18, 2019) (to be codified at 38 C.F.R. pts 3, 8, 14, 19, 20, 21).

[49] 38 U.S.C. § 5104C; U.S. DEPT. OF VETERANS AFFAIRS, VA APPEALS MODERNIZATION, FACT SHEET, https://www.benefits.va.gov/BENEFITS/factsheets/appeals/Appeals-FactSheet.pdf.

[50] 38 U.S.C. § 5104B(d).

[51] 38 U.S.C. § 5108.

[52] 38 U.S.C. §§ 7105, 7113.

[53] *Beaudette v. McDonough*, 34 Vet. App. 95 (2021) *aff'd* 93 F.4th 1361 (Fed. Cir. 2024).

[54] *Id.* at 100. For more information on the Caregivers Program see *The Program of Comprehensive Assistance for Family Caregivers*, U.S. DEP'T OF VETERANS AFFS. (Feb. 11, 2026), https:/www.va.gov/family-member-benefits/comprehensive-assistance-for-family-caregivers.

[55] *Beaudette*, 34 Vet. App. at 95.

[56] *Id.* at 101.

[57] *Id.* at 105, 108.

[58] Beaudette v. McDonough, 93 F.4th 1361, 1363 (Fed. Cir. 2024).

Then, on February 27, 2024, the Federal Circuit affirmed the CAVC's decision.[59] The question on appeal was "whether the Beaudettes have a 'clear and indisputable' right to Board review under the correct interpretation of 38 U.S.C. § 1720G(c)(1)."[60] The court separated an eligibility decision from a judgmental treatment decision; where the VA would have the authority to prescribe certain medical care, the Board has the authority to review other decisions, like eligibility decisions.[61] The court found that the Beaudettes were deemed ineligible in part because Mr. Beaudette was not available for an in-person evaluation, but that this was a procedural point of eligibility under the Caregiver Program, not a medical determination.[62] Therefore, the Board did have the authority to review the decision.[63] The court concluded by stating "the Beaudettes and other similarly situated veterans and caregivers have an indisputable right to judicial review of Caregiver Program decisions that do not affect the furnishing of support or assistance."[64]

III. THE NATIONAL DEFENSE AUTHORIZATION ACT

The National Defense Authorization Act[65] (NDAA) authorizes appropriations and establishes policy for the Department of Defense, nuclear weapons at the Department of Energy, defense intelligence programs, and the federal government's other defense activities.[66] The Act determines the agencies responsible for defense, establishes recommended funding levels, and sets the money spending policies. It does not provide budget authority, which is provided in subsequent legislation.[67]

The passage of the Act follows a predictable yearly schedule. First, in early February, the executive branch releases its Presidential Budget Request, which details a proposed budget for the upcoming fiscal year.[68] Then, the House and Senate Armed Services Committees hold hearings on the budget programs for the upcoming fiscal year.[69] Next, the Committees release their proposed bills for review and passage through subcommittees and full committees.[70] After the bills are passed in committees, the full House and Senate consider the bill on the floor.[71] Then, the two versions go to "conference" in which the leadership of both committees work to reconcile differences.[72] Finally, once the bill is passed in the House and Senate, the final bill is sent to the President for signature before it becomes law.[73] The

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[59] *Id.* at 1364.
[60] *Id.* at 1366.
[61] *Id.* at 1369.
[62] *Id.*
[63] *Id.*
[64] *Id.*
[65] Pub. L. No. 117-81.
[66] *Id.*
[67] *Id.*
[68] DANIEL M. GETTINGER & VALERIE HEITSHUSEN, CONG. RSCH. SERV. DEFENSE PRIMER: THE NDAA PROCESS, (Dec. 4, 2025), https://www.congress.gov/crs-product/IF10515; Monica Montgomery, CTR. FOR ARMS CONTROL AND NON-PROLIFERATION, *The NDAA Process, Explained*, https://armscontrolcenter.org/wp-content/uploads/2020/12/The-NDAA-process.pdf (last visited Oct. 1, 2026).
[69] *See* Gettinger & Heitshusen, *supra* note 68; *The NDAA Process, Explained*, *supra* note 68.
[70] *The NDAA Process, Explained*, *supra* note 68.
[71] *Id.*
[72] *Id.*
[73] *Id.*

NDAA includes authorization for personnel and often includes provisions that impact veterans' benefits and veterans law more broadly.[74]

IV. FEDERAL TORT CLAIMS ACT

The Federal Tort Claims Act[75] (FTCA) provides a mechanism for veterans to file a claim against the United States government.[76] More specifically, the FTCA waives the United States' sovereign immunity and allows an individual to bring suit to recover for damage to or loss of property, or personal injury or death, caused by the negligence, wrongful act, or omission of a government employee while acting within the scope of his or her employment, including a VA employee.[77] The FTCA includes an intentional tort exception, so an individual may not sue the federal government for an intentional tort by a federal government employee.[78]

A. Feres *Doctrine*

The *Feres* Doctrine prevents servicemembers from suing under the FTCA for injuries that "arise out of or are in the course of activity incident to service."[79] Military reservists killed or injured in training exercises are subject to the *Feres* Doctrine, but discharged veterans injured at VA hospitals are excluded from the *Feres* Doctrine.[80] Critics of the *Feres* Doctrine level three main criticisms: (1) the loss of autonomy and rights of servicemembers because they are unable to sue for medical malpractice, (2) the majority of medical care provided to servicemembers is outside of combat zones, and (3) the change in the rationale for upholding the doctrine over the years from protecting military unity to preventing the second-guessing of orders.[81] Proponents counter by arguing that litigation will not solve the problem of military hospital negligence because the *Feres* Doctrine only prevents the government from being sued and not individual hospitals.[82] Additionally, seventy percent of people treated in military hospitals are dependents of servicemembers, who are not subject to the *Feres* Doctrine.[83] In the NDAA 2020, Congress granted servicemembers an exception to the *Feres* Doctrine, allowing those injured by medical malpractice to file an administrative claim with the Secretary of Defense for compensation.[84]

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[74] *See, e.g.,* Kathleen McCarthy, *Chairman Bost Applauds Final Passage of FY2026 NDAA, Locks Key Wins to Build of Transition Assistance Program, Toxic Exposure Benefits Delivery,* H. COMM. ON VET. AFFS. (Dec. 12, 2025), https://veterans.house.gov/news/documentsingle.aspx?DocumentID=7812 (outlining the nexus between NDAA for Fiscal Year 2026 and veterans benefits).

[75] 28 U.S.C. §§ 2671–80.

[76] U.S. COURTS, *Federal Tort Claims Against Federal Judiciary Personnel*, https://www.uscourts.gov/rules-policies/judiciary-policies/federal-tort-claims-against-federal-judiciary-personnel (last visited Oct. 1, 2026).

[77] *Id.*

[78] 28 U.S.C. § 2680(h).

[79] Feres v. United States, 340 U.S. 135, 146 (1950) (articulating the doctrine); Callum D. Dewar, Jason H. Boulter, Brian P. Curry, Dana M. Bowers, & Randy S. Bell, *The Changing Landscape of Military Medical Malpractice: From the* Feres *Doctrine to Present*, 49 J. NEUROSURGERY 1, 1 (2020).

[80] *Id.* at 2.

[81] *Id.*

[82] *Id.*

[83] *Id.* at 3.

[84] *Id.*

V. THE PACT ACT

In August 2022, President Joseph R. Biden signed into law the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act,[85] which increases VA benefits for veterans who were exposed to toxic materials, such as burn pits or Agent Orange.[86] The PACT Act extends the period to enroll in VA healthcare from five to ten years for post 9/11 combat veterans, creates a presumption that an ailment is service-connected if a veteran is diagnosed with one of twenty-three conditions and meets service requirements, allows for the possibility that survivors of veterans who die of one of the twenty-three conditions can be eligible for benefits, and requires the VA to screen veterans enrolled in VA healthcare for toxic-exposure.[87]

The enactment of the PACT Act has impacted the Federal Circuit's decision in cases where the new legislative affected the substantive rights of veterans' benefits claims in pending appeals . In *Military Veterans-Advocacy Inc. v. Secretary of Veterans Affairs*,[88] the appellant waived its challenge to rules impacting U.S. service members exposed to Agent Orange in Thailand during the Vietnam War as moot because the PACT Act broadened the scope of "presumptive exposure" to include benefits for veterans who served on military bases in Thailand.[89] In *Onofre v. McDonough*,[90] the Federal Circuit remanded a veteran's hypertension claim to the CAVC due to review in light of the PACT Act's amendment to the presumption of service connection related to hypertension.[91]

Included in the PACT Act, the Camp Lejeune Justice Act of 2022[92] (CLJA) waives government immunity by allowing people exposed to water at Marine Corps Base Camp Lejeune in North Carolina for at least thirty days between 1953 and 1987 to first make a claim with the Navy Judge Advocate General and later to bring suit in the Eastern District of North Carolina.[93] Camp Lejeune's drinking water was potentially contaminated with industrial solvents from dry-cleaning waste and benzene from underground fuel tanks.[94] Unlike FTCA claims, which cap attorneys' fees at twenty percent for administrative

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[85] Pub. L. 117-168, 136 Stat. 1759 (2022).

[86] *The PACT Act and Your VA Benefits*, U.S. DEP'T OF VETERANS AFFS. (Jun. 2, 2026), https://www.va.gov/resources/the-pact-act-and-your-va-benefits/; *see generally* SIDATH VIRANGA PANANGALA CONG. RSCH. SERV., R47542, HONORING OUR PACT ACT OF 2022 (P.L. 117-168): EXPANSION OF HEALTH CARE ELIGIBILITY AND TOXIC EXPOSURE SCREENINGS (updated Apr. 19, 2024) https://www.congress.gov/crs_external_products/R/PDF/R47542/R47542.4.pdf (providing a legislative history and explaining the legislation's impact on veterans' health benefits and legislative history).

[87] Amy B. Wang, Matt Viser, & Paul Kane, *Biden Signs Bill to Aid Veterans Exposed to Toxins from Burn Pits*, WASH. POST (Aug. 10, 2022), https://www.washingtonpost.com/politics/2022/08/10/biden-veterans-burn-pits.

[88] 63 F.4th 935 (Fed. Cir. 2023).

[89] *Id.* at 943 (citing Pub. L. 117-168, §403, 136 Stat. 1759, 1780–81 (codified as amended at 38 U.S.C. § 1116(d)(2)) (recognizing that the Pact Act provided in part the relief that Military Veterans Advocacy Inc. requested).

[90] No. 2022-1897, 2023 WL 2534048 (Fed. Cir. Mar. 16, 2023).

[91] *Id.* at *3–*4.

[92] Camp Lejeune Justice Act of 2022, Pub. L. No. 117-168, § 804, 136 Stat. 1759, 1802–04.

[93] Mark A. Behrens, *Pres. Biden Signs Camp Lejeune Justice Act into Law*, FEDERALIST SOC'Y (Aug. 11, 2022), https://fedsoc.org/commentary/fedsoc-blog/pres-biden-signs-camp-lejeune-justice-act-into-law.

[94] *Camp Lejeune: Past Water Contamination*, U.S. DEP'T OF VETERANS AFFS., https://www.publichealth.va.gov/exposures/camp-lejeune/ (last visited Oct. 18, 2026).

settlements and twenty-five percent for cases going to trial, the CLJA does not provide a limit.[95]

VI. VETERANS LAW CASES TO KNOW

A. *Supreme Court*

On October 5, 2026, the Supreme Court heard oral arguments in *Johnson v. United States Congress*,[96] to consider whether federal district courts have jurisdiction under Section 511(a) of the VJRA to review certain constitutional challenges to veteran's benefits. The case involves Floyd Johnson, an incarcerated veteran, who was approved to receive disability benefits during his incarceration for service-related post-traumatic stress disorder (PTSD).[97] His initial approval called for a seventy percent monthly rate and was later increased to eighty percent after an administrative appeal.[98] However, the Veterans Benefits Administration then reduced Mr. Johnson's monthly rate to ten percent, citing "section 5313 of the Veterans' Benefits Act, which limits disability benefits to veterans incarcerated for more than 60 days due to a felony conviction."[99] Mr. Johnson challenged the reduction, arguing that section 5313 violated article I, section 9, clause 3 of the Constitution (the "Bill of Attainder Clause") and equal protection under the Fifth Amendment.[100] The district court assumed jurisdiction over the claim and dismissed Mr. Johnson's complaint as frivolous.[101] The Eleventh Circuit vacated the lower court's judgment, holding that there was not proper jurisdiction because it found that the VJRA stripped district courts' jurisdiction to these veteran challenges.[102] The Supreme Court's decision in this case may help to distinguish which, if any, constitutional challenges to veteran's benefits may be heard by a federal district court instead of the U.S. Court of Appeals for Veteran's Claims and the Federal Circuit.[103]

In *Bufkin v. McDonough*,[104], the Supreme Court considered the "benefit of the doubt" rule.[105] Veteran Petitioners Mr. Bufkin and Mr. Thornton sought disability benefits from the VA, claiming they had PTSD stemming from their military service.[106] They argued that they qualified for benefits under the benefit-of-the-doubt rule that requires the VA to give claimants the "'benefit of the doubt,'" allowing veterans access to treatment when there is a balance of evidence for and against them receiving care.[107] The Supreme Court affirmed the Court of Appeals, ruling against the Petitioners, finding that the VA's benefit-of-the-doubt

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[95] 28 U.S.C. § 2678; Michelle Andrews, *Lawyer Fees Draw Scrutiny as Camp Lejeune Claims Stack Up*, HEALTH NEWS FLA. (MAY 18, 2023, at 10:39 ET), https://health.wusf.usf.edu/health-news-florida/2023-05-18/lawyer-fees-draw-scrutiny-as-camp-lejeune-claims-stack-up.

[96] 146 S. Ct. 2155 (argued Oct. 5, 2026).

[97] Johnson v. United States Congress, 151 F.4th 1287, 1290 (11th Cir. 2025), *argued*, 146 S. Ct. 2155 (2026).

[98] *Id.*

[99] *Id.*; 38 U.S.C. § 5313.

[100] *Johnson*, 151 F.4th at 1290.

[101] *Id.*

[102] *Id.* at 1296; 38 U.S.C. § 511(a).

[103] For more discussion on the oral arguments, see Kelsey Dallas, *Justices debate which courts may hear constitutional challenges to laws on veterans' benefits*, SCOTUSBLOG.COM (Oct. 6, 2026, at 14:02 ET), https://www.scotusblog.com/2026/10/justices-debate-which-courts-may-hear-constitutional-challenges-to-laws-on-veterans-benefits/.

[104] 604 U.S. 369 (2025).

[105] Bufkin v. McDonough, 604 U.S. 369, 372 (2025).

[106] *Id.*

[107] *Id.* at 372.

determinations are a factual question, as opposed to a legal question, that are reviewed for clear error.[108] Under this standard, the VA's original decisions are given deference. In the dissenting opinion, Justice Jackson and Justice Gorsuch argue that a "[n]ondeferential review" would have better "minimize[d] the risk that veterans with borderline claims will be denied benefits to which they are entitled." [109]

In *Rudisill v. McDonough*,[110] Mr. Rudisill appealed the Federal Circuit's *en banc* decision denying him GI benefits when he believed his qualification for both the Montgomery GI Bil[111] and Post-9/11 GI Bill[112] entitled him to more benefits under 38 U.S.C. § 3327(a) than he previously claimed.[113] Mr. Rudisill argued that 38 U.S.C. § 3327(a) allows individuals with benefits under both programs to gain the entirety of the benefits entitled under each, up to the 48 month aggregate benefits cap.[114] The Supreme Court reversed the Federal Circuit's holding and ruled that the legislation allows for additional benefits to veterans who qualified under multiple periods of service, 38 U.S.C. § 3695(a) explicitly limits the aggregate of such benefits to "not exceed 48 months," and Mr. Rudisill is free to access both sets of benefits, in whatever order he chose, up to the cap.[115] As such, Mr. Rudisill is entitled to more education benefits than the VA initially certified.

In *George v. McDonough*,[116] Mr. George appealed a 1977 denial of his VA benefits claim after the regulatory procedure used to deny the claim was invalidated in 2003.[117] The Supreme Court ruled against Mr. George, stating that a determination of a clear and convincing unmistakable error must be based on the laws and procedures that existed when Mr. George's original VA benefits claim was denied.[118]

B. *U.S. Court of Appeals for the Federal Circuit*

Earlier this year, in *Hamill v. Collins*,[119] the Federal Circuit held that the enhanced notice requirements in the Appeals Modernization Act[120] (AMA) require the VA's initial decisions to explicitly address whether it is denying a veteran's benefit claim.[121] This decision eradicates "the implicit denial doctrine," which allowed for certain circumstances in which a veteran's benefit claim would be deemed denied, thus finally adjudicated and appealable, even though the VA's decision did not expressly address the claim.[122] Since the AMA expanded the options a veteran has to appeal a VA decision, the initial decision plays a larger role of informing a veteran which option to pursue.[123] Considering the AMA's text and the legislative history, the Federal Circuit concluded the "implicit denial doctrine" was

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[108] *Id.*
[109] *Id.*
[110] 601 U.S. 294 (2024).
[111] 38 U.S.C. § 3013.
[112] 38 U.S.C. § 3312.
[113] *Rudisill*, 601 U.S. at 298.
[114] *Id.* at 303–04.
[115] *Id.* at 312–14.
[116] 596 U.S. 740 (2022).
[117] *Id.* at 744–45.
[118] *Id.* at 753.
[119] 166 F.4th 1030 (Fed. Cir. 2026).
[120] Pub. L. No. 115-55, 131 Stat. 1105 (2017).
[121] *Id.* at 1038.
[122] *Id.* at 1034 (quoting *Adams v. Shinseki*, 568 F.3d 956, 961 (Fed. Cir. 2009)).
[123] *Id.* at 1036.

"fundamentally incompatible" with the AMA's new appeals system.[124] In light of this decision, a veterans claim will only be considered appealable if the VA's decision includes "explicit notice that the issue is being adjudicated and how it is being decided."[125]

In *Doyon v. United States*,[126] the Federal Circuit held that statutes related to PTSD required the Board for the Correction of Naval Records to use "liberal consideration" when evaluating the circumstances leading to a service member's discharge.[127] It allowed for the possibility of a service members discharged for "personality disorders" to challenge that the discharge was due to PTSD, thereby entitling him not just to disability compensation but to retroactive military disability retirement pay.[128]

In *Larson v. McDonough*,[129] Mr. Larson appealed the Board of Veterans' Appeals decision, which denied him a total disability rating.[130] The decision was premised on how Mr. Larson's obesity and dysmetabolic syndrome were did not qualify as disabilities because they were not part of the rating schedule to determine one's percentage of disability.[131] He argued that CAVC has the power to decide what is a disability, even if it cannot change its rating.[132] The issue that the court faced was whether CAVC is prohibited from deciding what is a disability after the Board has made its decision.[133] The Federal Circuit ruled that CAVC has the power to decide what is a disability, but not change the rating the disability receives to determine what percentage one is disabled.[134]

C. *Other Article III Courts*

In *Powers v. McDonough*,[135] the U.S. Court of Appeals for the Ninth Circuit largely affirmed a lower court's landmark ruling that the VA violated the Rehabilitation Act by failing to provide housing for unhoused and disabled veterans in Los Angeles.[136] In 2024, a California District Court issued an injunction compelling the West Los Angeles VA to provide the veterans with housing, as well as an order to stop entering into illegal land-use agreements.[137] For context, the VA received land in the 1800s—land intended to house veterans with disabilities. The Ninth Circuit affirmed that the VA's income restrictions,

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[124] *Id.* at 1034–37.

[125] *Id.* at 1038.

[126] 58 F.4th 1235 (Fed. Cir. 2023).

[127] *Id.* at 1245.

[128] On remand, the U.S. Court of Federal Claims set aside the BCNR's decision as "arbitrary and capricious," ruling in favor of Plaintiff Veteran Doyon. Doyon v. United States, No. 19-1964C, 2024 WL 3861736, at *13–15 (Fed. Cl. Aug. 19, 2024). For more discussion on the VA's recognition of PTSD and service-related disability benefits see John Heaney, *Enlisting Support: Ensuring that Veterans Disabled by Service-Related Mental Illness Receive the Help They Deserve*, 30 FED. CIR. BAR. J. 193 (2021).

[129] 10 F.4th 1325 (Fed. Cir. 2021)

[130] Larson v. McDonough, 10 F.4th 1325 (Fed. Cir. 2021). Upon a finding that it had jurisdiction to hear Mr. Larson's claims, the Court of Appeals for Veterans Claims remanded the case, holding that "the Court will vacate that part of the Board's decision that denied entitlement to benefits for morbid obesity, dysmetabolic syndrome, fatigue, edema, skin tags, acanthosis nigricans, and striae, and remand those matters for further proceedings consistent with this decision." *See* Larson v. McDonough, No. 17-0744, 2021 WL 5296717, at *1 (Vet. App. Nov. 15, 2021).

[131] *Larson*, 10 F.4th at 1325–27.

[132] *Id.* at 1327.

[133] *Id.*

[134] *Id.* at 1329–30.

[135] 163 F.4th 1162 (9th Cir. 2025).

[136] *Powers v. McDonough*, 163 F.4th 1162, 1188.

[137] *Powers v. McDonough*, 748 F. Supp. 3d 842 (C.D. Cal. 2024).

which counted veterans' disability benefits as income, were "facially discriminatory under the Rehabilitation Act."[138] The decision invalidated some of VA's leases to third party commercial interest because the leases did "little to benefit the veterans" who are required to be the primary beneficiaries under the West Los Angeles Leasing Act.[139] The Ninth Circuit also upheld the District Court's order that the VA build 1,800 permanent housing units and 750 temporary units on the West LA VA's campus.[140]

In *NOW-NYC v. Department of Defense*,[141] The National Organization of Women-New York City ("NOW-NYC") sued the Department of Defense and VA, claiming unlawful and discriminatory IVF policies, which require service members to show that their need to procreate is "connected to their military service,"[142] formally called the "Service Connection Requirement."[143] If service members cannot show this nexus, their fertility healthcare will not be covered by the VA's Veteran's Health Admission ("VHA").[144] The New York District Court dismissed the case for lack of jurisdiction, finding that the claim was barred from District Court review under the VJRA, and for failure to state a claim.[145] On January 6, 2025, NOW-NYC appealed the case to the Second Circuit.[146] The Second Circuit heard oral arguments on February 26, 2026 but no decision has been issued at this time.[147]

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[138] *Powers*, 163 F.4th at 1188.
[139] *Id.* at 1173.
[140] *Id.* at 1194–95.
[141] 755 F. Supp. 3d 350 (S.D.N.Y. 2024).
[142] *NOW-NYC*, 755 F. Supp. 3d at 355.
[143] *Id.*
[144] *Id.*
[145] *Id.*
[146] *Court Cases*: *NOW-NYC v. DoD and VA*, ACLU (last updated Apr. 17, 2025), https://www.aclu.org/cases/now-nyc-v-dod-and-va.
[147] *NOW-NYC v. Dept. of Defense*, No. 25-71 (2d Cir. argued Feb. 26, 2026).