

UNITED STATES
COURT OF APPEALS
FOR
VETERANS CLAIMS



The United States Court of Appeals for Veterans Claims is a federal court of record established by Congress to review adverse rulings on claims for veterans benefits issued by the Department of Veterans Affairs (VA), an agency which had been sheltered from judicial review prior to 1988.



"[J]udicial review, by opening the decisions of the VA to court scrutiny, will have a salutary effect on such decisions and on the VA decisionmaking process in general by involving the judiciary as a check on agency actions."*



The courtroom at the U. S. Court of Appeals for Veterans Claims.

*S. Rep. No. 100-418, at 50 (1988).

One Hundredth Congress of the United States of America

AT THE SECOND SESSION

Began and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-eight.

An Act

To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 552 of title 5, United States Code, to redemptive procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rate of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—VETERANS' JUDICIAL REVIEW

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) **SHORT TITLE.**—This division may be cited as the "Veterans' Judicial Review Act".

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

SEC. 101. DECISIONS BY ADMINISTRATOR.

(a) **MATTERS TO BE DECIDED BY ADMINISTRATOR.**—Subsection (a) of section 211 is amended to read as follows:

"(A) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection does not apply to—

- "(A) matters subject to section 223 of this title;
- "(B) matters covered by sections 772 and 784 of this title;
- "(C) matters arising under chapter 37 of this title; and

The Veterans' Judicial Review Act

For the purpose of carrying out (b) and accept private contributions to the fund established by

published in the Treasury a fund American Battle Monuments

section. The fund shall consist

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2) and

(B) obligations obtained under paragraph (3).

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (1). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(4) Amounts in the fund that are in excess of the costs of carrying out this section, as determined by the Chairman of the Commission, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (a).

(5) **APPROPRIATION OF FUNDS.**—There are hereby authorized to be appropriated—

(1) \$5,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in subsection (a); and

(2) such sums as may be necessary for the operation and maintenance of such Memorial and other historical and memorial sites.

Ally W. Nix
Speaker of the House of Representatives

John C. Stennis
Vice President of the United States and
President of the Senate, pro tempore

APPROVED

NOV 18 1988

Ronald Reagan

The Court was created with the signing of the Veterans' Judicial Review Act (now codified in chapter 72 of title 38, United States Code) by President Ronald Reagan on November 18, 1988. This heralded a sea change by providing veterans and their dependents, for the first time, the right to judicial review of adverse rulings on claims for VA benefits by the Board of Veterans' Appeals (Board), an administrative review board within VA.

For over a century, veterans who were denied claims for VA benefits or who disagreed with the findings of the Board of Veterans' Appeals could pursue their legal claims no further. There was no independent judicial review of the adverse decisions of the Board.

The United States Court of Appeals for Veterans Claims has exclusive jurisdiction to judicially review final decisions by the Board of Veterans' Appeals. The Court is located in Washington, D.C., but it is a national court and may hear cases anywhere in the United States. In addition to its review authority, the Court has contempt authority, as well as the authority to compel action by the Secretary of Veterans Affairs or to grant a petition for extraordinary relief, under the All Writs Act, 28 U.S.C. § 1651.



The judges of the Court are appointed by the President with the advice and consent of the Senate. Currently, there are nine active judges and eight retired judges eligible to be recalled to service.



To obtain review by the Court, an appellant is required to file a Notice of Appeal within 120 days after the date on which the notice of the final decision by the Board of Veterans' Appeals is mailed.

Issues raised before the Court include a wide range of VA disability, educational assistance, survivor benefit, and pension benefit claims. An appeal by a veteran or family member may involve, for example, a denial of an initial claim for disability benefits, a decreased disability rating that results in reduced disability compensation, or a termination of disability benefits.



“[P]roviding an opportunity for those aggrieved by VA decisions to have such decisions reviewed by a court... is necessary in order to provide such claimants with fundamental justice.”*

*S. Rep. No. 100-418, at 50 (1988).



Appeals to the Court are frequently brought by the veteran or family member on his or her own behalf, with paid legal representation, or with free representation provided through a pro bono consortium. The Secretary of Veterans Affairs, who is the appellee or respondent in each case, is represented by the VA general counsel and staff of attorneys.

The Court's Rules of Practice and Procedure, including its e-filing rules and Internal Operating Procedures, provide guidance on its procedures.

The Court has adopted a federal case management electronic case filing system to optimize the timely and efficient processing of its cases. Electronic filing procedures, which in general apply to appeals in which the appellant has legal representation, provide automatic service of documents filed with the Court and permit documents to be readily available to the parties.

Motions and pleadings by appellants with legal representation are required, with a few exceptions, to be electronically filed with the Clerk of the Court. As an appeal proceeds, active mediation procedures are initiated by the Court's Central Legal Staff in represented cases to facilitate a joint resolution of the appeal before it is considered by a judge. If the appeal continues to judicial review, it may be considered by a single judge, whose decision is non-precedential, or by a randomly selected panel of three judges, which renders a precedential opinion. Occasionally, an appeal will be considered and decided by the full court (en banc).



Oral arguments before the Court are heard in Washington, D.C. As part of its education outreach program, the Court also has been conducting hearings on appeals at law schools or federal courts throughout the Nation.


Precedential opinions by the Court are published in West's Veterans Appeals Reporter Series. All opinions and decisions of the Court are available, as well, on the Court's Web site at www.uscourts.cavc.gov and through such online legal publishers as Westlaw® and LexisNexis®.



View from the bench, at the U.S. Court of Appeals for Veterans Claims courtroom.

Questions of law decided by the Court may be appealed to the U.S. Court of Appeals for the Federal Circuit and then to the U.S. Supreme Court.

The Chief Judge of the Court generally convenes a judicial conference every three years. The focus of the conference is the improvement of the administration of justice within the Court's jurisdiction. The conference involves the active participation of distinguished members of the legal community, attorneys and practitioners admitted to practice before the Court, and other interested persons.



*“The willingness with which
our young people are likely to serve
in any war, no matter how justified,
shall be directly proportional as to
how they perceive the veterans of
earlier wars were treated and
appreciated by their nation.”*

-George Washington

*The office of the Clerk is open during business hours,
from 9:00 a.m. to 4:00 p.m.,
on all days except Saturdays, Sundays,
and legal holidays.*

*For additional information about the United States Court of Appeals for
Veterans Claims please visit the Court's Web site at: www.uscourts.cavc.gov
or call (202)501-5970 ext. 1010.*



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