NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

RENE ORTIZ,
Claimant-Appellant

v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS,
Respondent-Appellee

2025-2156

Appeal from the United States Court of Appeals for Veterans Claims in No. 25-5668, Judge Joseph L. Falvey, Jr.

Decided: September 11, 2026

RENE ORTIZ, Sacaton, AZ, pro se.

MATTHEW LEWIS, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for respondent-appellee. Also represented by WILLIAM JAMES GRIMALDI, PATRICIA M. MCCARTHY, BRETT SHUMATE; CHRISTOPHER O. ADELOYE, BRIAN D. GRIFFIN, Office of General Counsel, United States Department of Veterans Affairs, Washington, DC.

Before DYK, CHEN, and STOLL, *Circuit Judges*.

PER CURIAM.

Rene Ortiz appeals a United States Court of Appeals for Veterans Claims decision dismissing his petition for a writ of mandamus. In the mandamus petition, Mr. Ortiz sought an order compelling the Department of Veterans Affairs to reinstate him as a VA employee. For the reasons discussed below, we affirm.[1]

BACKGROUND

On July 9, 2025, Mr. Ortiz filed a petition for a writ of mandamus in the Veterans Court alleging that he was wrongfully terminated from his position as a Veterans

[1] The Opening Brief discusses a decision by the United States District Court for the District of Arizona, but it does not discuss or even mention the Veterans Court's decision on appeal. The decision by the United States District Court for the District of Arizona is outside of our jurisdiction and not before us. *See* 28 U.S.C. § 1291; Reply Br. 3 (Mr. Ortiz clarifying that he "does not ask this Court in this Appeal to review the separate Arizona district-court dismissal . . . ."). Regarding the Veterans Court's decision on appeal, typically, "the failure of an appellant to include an issue or argument in the opening brief will be deemed a waiver of the issue or argument." *Carbino v. West*, 168 F.3d 32, 34 (Fed. Cir. 1999) (citation omitted). However, we may exercise discretion and deviate from this practice "where circumstances indicate that it would result in basically unfair procedure." *Becton Dickinson & Co. v. C.R. Bard, Inc.*, 922 F.2d 792, 800 (Fed. Cir. 1990) (citations omitted). Because Mr. Ortiz is proceeding pro se, we consider the arguments he raises for the first time in his Reply Brief.

Claims Examiner, in violation of an agreement between the VA and the American Federation of Government Employees. SAppx 25–30.[2] The mandamus petition states that Mr. Ortiz's "claim does not arise from an application for or denial of a Title 38 VA benefit." SAppx 32. The mandamus petition also does not identify a particular order or decision for which Mr. Ortiz sought review—let alone a decision from the Board of Veterans' Appeals.

In response, the Veterans Court issued an order denying the mandamus petition for lack of jurisdiction. SAppx 1–2. Specifically, the Veterans Court held that it does not have jurisdiction because "Mr. Ortiz's case is not about VA benefits"—rather, "it is about a contract dispute he has with [the] VA." SAppx 2. Therefore, Mr. Ortiz's mandamus petition concerned an issue outside of the Veterans Court's prospective jurisdiction, and it dismissed the petition, determining that it "can't use mandamus to aid that prospective jurisdiction." *Id.* The Veterans Court entered judgment on August 20, 2025. SAppx 3.

Mr. Ortiz appeals. We have jurisdiction under 38 U.S.C. § 7292(c).

DISCUSSION

The scope of our review in an appeal from a Veterans Court decision is limited. *Wanless v. Shinseki*, 618 F.3d 1333, 1336 (Fed. Cir. 2010). We "have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof . . . and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision." 38 U.S.C. § 7292(c). We may review a decision by the Veterans Court concerning whether to grant a mandamus petition when the petition raises a non-frivolous legal

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[2] "SAppx" refers to the Supplemental Appendix filed with the Government's Response Brief, ECF No. 26.

question, such as a constitutional issue or the interpretation of a regulation or statute that was relied on by the Veterans Court. *See Beasley v. Shinseki*, 709 F.3d 1154, 1157–58 (Fed. Cir. 2013).

We affirm the Veterans Court's decision. The Veterans Court was established under Article I of the Constitution of the United States, and as such, "may issue all writs necessary or appropriate in aid of [its] *respective jurisdiction[]* and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a) (emphasis added). "[W]hile a function of mandamus in aid of appellate jurisdiction is to remove obstacles to appeal, it may not appropriately be used merely as a substitute for the appeal procedure prescribed by the statute." *Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 26 (1943). In view of these authorities, we must consider the Veterans Court's jurisdiction: "The Court of Appeals for Veterans Claims shall have exclusive jurisdiction to review decisions of *the Board of Veterans' Appeals*. . . . The [Veterans] 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. § 7252(a) (emphases added).

Here, Mr. Ortiz's mandamus petition does not involve a Board decision concerning a claim for VA benefits. As Mr. Ortiz repeatedly states, his petition involves a contract dispute between him and the VA. *See, e.g.*, Reply Br. 3 ("Appellant's claim is that VA induced him to resign from his Veterans Claims Examiner position by promising that VA would provide tuition and travel for law school, then refused to honor that [p]romise."); Reply Br. 5–6 (similar); SAppx 32 (mandamus petition stating that Mr. Ortiz's "claim does not arise from an application for or denial of a Title 38 VA benefit," but instead "originates from a contractual dispute"). However, this contractual dispute, and any benefits Mr. Ortiz claims he is due, were never before the Board in this proceeding; nor were they even initially presented to the VA in accordance with the Veterans Judicial

Review Act system. Therefore, the Veterans Court may not exercise jurisdiction over Mr. Ortiz's mandamus petition.

Mr. Ortiz does not meaningfully address the Veterans Court's jurisdiction under § 7252 or its holding that it "can review *Board decisions* denying VA benefits." SAppx 1 (emphasis added). Instead, Mr. Ortiz argues that the facts giving rise to his claim involve "the denial of a promised VA-related Benefit or Agency-authorized obligation" within the Veterans Court's jurisdiction. Reply Br. 6.[3] Even if the facts could support a claim for benefits, Mr. Ortiz may not take a shortcut past the Veterans Judicial Review Act system and a Board decision before seeking review by the Veterans Court via a mandamus petition.

Accordingly, we hold that the Veterans Court does not have jurisdiction over Mr. Ortiz's petition.

CONCLUSION

We have considered Mr. Ortiz's remaining arguments and find them unpersuasive. Accordingly, we affirm the Veterans Court.

AFFIRMED

COSTS

No costs.

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[3] This position is at odds with the mandamus petition. SAppx 31 ("This action is predicated on a breach of a collective bargaining agreement, not a denial of a Title 38 VA benefit . . . .").