NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

RICHARD A. PROCEVIAT,
Claimant-Appellant

v.

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

2026-1373

Appeal from the United States Court of Appeals for Veterans Claims in No. 25-717, Chief Judge Michael P. Allen.

Decided: November 4, 2026

RICHARD A. PROCEVIAT, Elma, Manitoba, Canada, pro se.

RETA EMMA BEZAK, 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; DAVID HARMANTAS, Y. KEN LEE, Office of General Counsel, United States Department of Veterans Affairs, Washington, DC.

Before TARANTO, LINN, and CUNNINGHAM, *Circuit Judges*.

PER CURIAM.

Richard Arnold Proceviat, who served honorably in the U.S. Army between 1970 and 1972, sought benefits from the Department of Veterans Affairs (VA) based on rheumatoid arthritis in 1987, and VA's relevant regional office (RO) awarded him a non-service-connected pension effective August 1989. In 1996, Mr. Proceviat submitted new evidence that he needed regular aid and attendance (A&A), and VA awarded him the higher amount of a special monthly pension (SMP) with A&A effective June 1996. Since then, Mr. Proceviat has been unsuccessfully seeking an earlier effective date (back to 1987 or 1989) of the SMP-with-A&A benefit. The present appeal arises from a rejection of his contention by VA's Board of Veterans' Appeals (Board) in 2024, a rejection that, the following year, the United States Court of Appeals for Veterans Claims (Veterans Court) affirmed in light of previous adjudications. *Proceviat v. Collins*, No. 25-717, 2025 WL 3443439 (Vet. App. Dec. 1, 2025) (*Decision*).

Mr. Proceviat's challenge centers on two arguments—that the Board did not sympathetically read medical records from July 1987 and July 1989 that, so read, support an earlier effective date for the SMP-with-A&A benefit; and that the RO failed to notify him of the denial of SMP claims in November 1987 and March 1989, violating his due-process rights. Proceviat Informal Br. at 4–5, 6–10. We conclude that Mr. Proceviat has not shown reversible error in the Veterans Court's decision. We therefore affirm that decision.

I

In March 1987, Mr. Proceviat, a veteran, indicated to VA that he wanted to apply for veterans' benefits. *See Proceviat v. Peake*, 296 F. App'x 941, 942 (Fed. Cir. 2008) (*Proceviat Fed. Cir. 2008*). In July 1987, he applied for compensation for service-connected disability or for pension benefits for non-service-connected disability, *see*, *e.g.*, 38 U.S.C. §§ 1110, 1521, for rheumatoid arthritis. In November 1989, the RO granted non-service-connected pension benefits, *see* 38 U.S.C. § 1521(e), assigning a 60-percent disability rating and an effective date of August 1, 1989.

In June 1996, Mr. Proceviat reopened his claim to assert that he required the aid and assistance of another person to complete daily activities due to his rheumatoid arthritis, and he filed an A&A questionnaire, along with photographs of his hands and feet, as support. The RO awarded him an SMP with A&A, effective June 7, 1996.

Mr. Proceviat on several occasions has sought an earlier effective date of his SMP-with-A&A benefit. In March 1997, he asked the RO for an earlier effective date, but the RO denied the request, finding no indication of a need for regular A&A before June 1996. In November 1997, Mr. Proceviat again asserted, this time in a notice of disagreement, that the proper effective date should be March 1987. Mr. Proceviat argued that "medical evidence in the record at the time [his] . . . claims were denied dictated a grant of pension and A&A." *Decision*, at *1; *see also* S. Appx. 20–21 (Board discussion of a July 1987 letter from Dr. Kenneth A. Murray and a July 1989 X-ray

report).[1] In 2005, the Board ultimately rejected his argument and held that there was no statement in the March 1987 record by Mr. Proceviat that he required assistance. S. Appx. 14–37. The Board instead concluded that the need for A&A was first shown in the A&A questionnaire Mr. Proceviat filed in 1996. S. Appx. 16, 34–35. The Board also rejected an argument by Mr. Proceviat that RO decisions in November 1987 and March 1989 denied him due process because he did not receive notice of the denials of his claims. S. Appx. 34. The Veterans Court affirmed the Board's decision in relevant part in 2007, S. Appx. 38–40; *Proceviat v. Mansfield*, 26 Vet. App. 38 (table), 2007 WL 3083547, at *2 (Oct. 22, 2007), and we dismissed Mr. Proceviat's subsequent appeal from that decision for lack of jurisdiction, concluding that he sought review only of factual findings and the application of a regulation to facts, *Proceviat Fed. Cir. 2008*, 296 F. App'x at 943–44 (citing *Buchanan v. Nicholson*, 451 F.3d 1331, 1334 (Fed. Cir. 2006)).

In December 2008, Mr. Proceviat filed a motion for revision of the RO's November 1989 decision, raising various claims of clear and unmistakable error (CUE). *See Proceviat v. Shinseki*, 524 F. App'x 674, 676 (Fed. Cir. 2013) (*Proceviat Fed. Cir. 2013*). The Board both deemed the claims to be barred by res judicata and reiterated that there was no evidence that his rheumatoid arthritis "was related to his military service." *Id.* at 676–77. The Veterans Court agreed that res judicata barred the CUE claims. *Id.* at 677. On appeal to this court, Mr. Proceviat argued that his due-process rights were violated "because of [VA's] alleged failure to adjudicate his inferred SMP

---

[1] "Appx." refers to the appendix submitted to this court by Mr. Proceviat. ECF No. 5 (labeling pages with letters A–F). "S. Appx." refers to the supplemental appendix submitted to this court by the government. ECF No. 6.

claim from 1986" and "because the Board ignored treatise evidence supposedly relevant to his claim for service-connected rheumatoid arthritis." *Id.* We rejected the argument. We held that Mr. Proceviat's CUE claims were barred by res judicata, reasoning that his CUE claims "relate to the denial of an earlier effective date for SMP in relation to the 1989 rating decision and . . . challenge the RO's assessment of the same evidence citing the same regulatory provisions relating to the weight of evidence and applications of diagnostic codes." *Id.* at 677–78.

In January 2022, Mr. Proceviat filed a supplemental claim with the RO, arguing that VA "failed to read the medical evidence sympathetically to infer a claim for SMP based on A&A" and that the RO "failed to provide him notice that he was denied SMP based on A&A in 1987 and 1989." *Decision*, at *2; *see Moody v. Principi*, 360 F.3d 1306, 1310 (Fed. Cir. 2004) ("[VA] has a duty to fully and sympathetically develop a veteran's claim to its optimum, and . . . this requires [VA] to determine all potential claims raised by the evidence, applying all relevant laws and regulations." (citation and quotation marks omitted)).

After the RO denied the supplemental claim, he filed a notice of disagreement challenging as CUE the effective-date assignment of his SMP-with-A&A benefits. On October 31, 2024, the Board dismissed, determining that "its August 2005 decision . . . precludes reconsideration of the claim" and stating that it had already "adjudicated [Mr. Proceviat's] claim of entitlement to an earlier effective date for SMP based on the need of [A&A] of another person on the basis of CUE." S. Appx. 8, 10, 12.

The Veterans Court affirmed the Board's dismissal. Regarding Mr. Proceviat's contention that the Board failed to fulfill its sympathetic-reading duty and thereby failed to infer an SMP-with-A&A claim from the medical evidence, the Veterans Court agreed with the Board that it had previously decided the question whether "the RO should

have inferred an SMP A&A claim from the medical records" and "found no evidence demonstrating" such a need before June 1996. *Decision*, at *3. The Veterans Court concluded that, given the prior rulings, those findings "[were] no longer subject to a CUE challenge." *Id.* Despite Mr. Proceviat's attempt to distinguish the current CUE challenge, the Veterans Court concluded that the "underlying issue" of "how the RO interpreted [Mr. Proceviat's] medical records" remains the same. *Id.* Regarding Mr. Proceviat's due-process-denial claim, the Veterans Court held that the Board already "determined that the RO did not adjudicate SMP with A&A before 1996" (so no notice of such an adjudication was needed) and that no exceptional circumstances existed to warrant departure from the Court's prior decision. *Id.* at *4 (citing *Toro Co. v. White Consolidated Industries, Inc.*, 383 F.3d 1326, 1337 (Fed. Cir. 2004) ("The law is well-settled; decisions once made are not to be disregarded except for exceptional circumstances.")).

The Veterans Court entered final judgment on December 23, 2025, *see* Judgment, *Proceviat v. Collins*, No. 25-717 (Vet. App. Dec. 23, 2025), and Mr. Proceviat timely appealed to this court. We have jurisdiction to hear certain challenges to final judgments of the Veterans Court under 38 U.S.C. § 7292.

II

Our jurisdiction under 38 U.S.C. § 7292 is limited. A challenge must identify an error in the decision of the Veterans Court, not an error in a Board or RO determination. 38 U.S.C. § 7292(a). Moreover, even within that basic limit, our review is limited: Except for constitutional issues, we cannot review findings of fact or application of law or regulation to the facts. 38 U.S.C. § 7292(a), (d)(2); *see Winsett v. Principi*, 341 F.3d 1329, 1331 (Fed. Cir. 2003). When we have jurisdiction, we generally affirm the Veterans Court's decision unless it is

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or (D) without observance of procedure required by law." 38 U.S.C. § 7292(d)(1). "We review de novo the Veterans Court's interpretation of law." *Roane v. McDonough*, 64 F.4th 1306, 1308 (Fed. Cir. 2023).

Mr. Proceviat frames his challenge as presenting two arguments: (1) that the Board decision contains CUE in failing to read his medical records sympathetically and (2) that he did not receive notice of his November 1987 and March 1989 RO decisions on his SMP with A&A and, thus, lost his appeal rights, amounting to a due-process violation. Proceviat Informal Br. at 4–5, 6–10. Neither argument, as framed, presents a legal question or a constitutional challenge to the decision of the Veterans Court. As framed, his appeal raises no issue within our limited jurisdiction. But we will, in this case, choose to treat Mr. Proceviat as suggesting that the Veterans Court, in affirming the Board's 2024 decision, departed from proper legal standards and erroneously approved a due-process violation. Reframed in that way, we have jurisdiction to address the merits of those suggestions. We reject his suggestions of error by the Veterans Court.

Regarding Mr. Proceviat's argument about failure to receive a sympathetic reading of his 1987 and 1989 medical records, Proceviat Informal Br. at 4, the Veterans Court rejected the argument on the ground that this issue had been previously litigated and decided against him, *Decision*, at *3. We discern no legal error in that conclusion. In Mr. Proceviat's prior litigation involving his claim for SMP with A&A, the Board in 2005 found that an earlier effective date was not warranted by the evidence, S. Appx. 35, and it considered the July 1987 Murray letter and July 1989 x-ray consultation report, S. Appx. 20, 21, that Mr. Proceviat now highlights, Appx. A, B. The

Veterans Court affirmed, S. Appx. 38–40; *Proceviat v. Mansfield*, 2007 WL 3083547, at *2, and we held on appeal that we could not review the question "whether the Board *gave adequate weight to the medical evidence* in the record," *Proceviat Fed. Cir. 2013*, 524 F. App'x at 678 (emphasis added).

A CUE challenge to a Board decision is unavailable for those "[d]ecisions on issues which have been appealed to and decided by a court of competent jurisdiction." 38 C.F.R. § 20.1400(b)(1). As we discussed in *Winsett v. Principi*, a CUE claim is thus foreclosed when there is "not a new issue, different from the one adjudicated previously," and, instead, there is only a claim "in which the facts have previously been reviewed by a court in light of the relevant law on the same claim." 341 F.3d at 1332 (citing 38 C.F.R. § 20.1400(b)). That is the case here. The 2005 Board decision addresses the same question on the same facts, with decisions on appeal from that decision effectively closing the matter. *See id.* This court's decision in *Moody*, invoked by Mr. Proceviat, *see* Proceviat Informal Br. at 6 (citing *Moody*, 360 F.3d at 1310), does nothing to establish a legal or constitutional error in the Veterans Court's decision here.

As to Mr. Proceviat's notice argument, *see* Proceviat Informal Br. at 7–10 (arguing that the RO "did not send [him] notice of the denial" in 1987 and 1989, violating his due-process rights), we similarly see no constitutional or legal error in the Veterans Court's rejection of the contention on the ground that the issue had already been adjudicated. The Board, in its 2005 decision, addressed and rejected Mr. Proceviat's claim that "he was denied due process because he was never given notice of [November 1987 and March 1989] decisions." S. Appx. 34 (determining that the reports were "generated in regard to VA examinations . . . and are not rating decisions"). The Veterans Court, in Mr. Proceviat's current appeal, correctly reasoned that Mr. Proceviat's due-process claim

was "decided . . . in [the Board's] 2005 decision," which was affirmed by the Veterans Court in 2007 (itself then subject to an appeal to this court), and concluded that no "exceptional circumstances . . . warrant[ed] departure" from the prior decision. *Decision*, at *4 (citing *Toro*, 383 F.3d at 1336–37). We see no constitutional error or any non-constitutional legal error in the Veterans Court's recitation or application of res judicata principles.

III

We have considered the remainder of Mr. Proceviat's arguments, and we find them unpersuasive. Accordingly, we affirm.

The parties shall bear their own costs.

AFFIRMED