

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Stephanie Ortega v. Douglas A. Collins

No. 24-4799 (U.S. Ct. App. Vet. Cl. Apr. 13, 2026) · No. 24-4799 · Decided April 13, 2026

SUMMARY

The United States Court of Appeals for Veterans Claims addressed an appeal involving disability ratings and service-connection claims for an Army veteran. The Court held that any notice error concerning the evidence-submission period was harmless, clarified that only favorable agency findings are binding on subsequent adjudicators, vacated and remanded portions of the Board decision concerning bilateral foot conditions, chronic fatigue syndrome, GERD, and left knee scars, and affirmed the cephalgia rating.

CASE DETAILS

COURT	United States Court of Appeals for Veterans Claims
WRITING FOR THE COURT	FALVEY, Judge; LAURER, Judge; JAQUITH, Judge
JURISDICTION	United States Court of Appeals for Veterans Claims
DECIDED	April 13, 2026
DOCKET	24-4799
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from an April 4, 2024, decision of the Board of Veterans' Appeals concerning disability ratings and service-connection claims.
STANDARD OF REVIEW	The Court reviewed the Board's decision for prejudicial error, including whether the Board provided adequate reasons or bases and whether VA examinations were adequate. Under 38 U.S.C. § 7261(b) (2), the Court must take due account of the rule of prejudicial error.
PRECEDENTIAL VALUE	Published; precedential as to the rule that only actually favorable findings bind subsequent VA adjudicators. The notice, examination, CFS, GERD, and scar determinations were expressly characterized by the majority as nonprecedential or applications of settled law.
PARTIES	Stephanie Ortega v. Douglas A. Collins, Secretary of Veterans Affairs

TOPICS

- veterans benefits
- appellate procedure
- administrative law
- due process
- standard of review

PRACTICE AREAS

veterans benefits

administrative law

appellate procedure

military law

constitutional law

QUESTIONS PRESENTED

1. Whether any error in the Board's notice concerning the 90-day evidence-submission period was prejudicial.
2. Whether an agency finding labeled favorable is binding on subsequent VA adjudicators when the finding is not actually advantageous to the claimant.
3. Whether the Board adequately addressed evidence concerning whether bilateral hallux valgus and pes planus preexisted service.
4. Whether VA obtained adequate medical examinations applying the correct standards for presumption of soundness, direct service connection, and aggravation.
5. Whether the Board provided adequate reasons or bases for its determinations concerning chronic fatigue syndrome, GERD, and left-knee surgical scars.

HOLDINGS

1. Assuming that VA or the Board committed a notice error, the error was harmless on this record because Ortega did not submit or attempt to submit evidence and did not show that the notice problem affected her ability to pursue the appeal.
2. Only findings that are actually favorable or advantageous to the claimant are binding on subsequent VA adjudicators. A finding labeled favorable is not binding if it does not help the claimant obtain the benefit at issue.
3. The Board erred by failing to discuss evidence indicating that Ortega did not have a foot disability before her later period of service and by failing to explain its conclusion that the conditions preexisted service.
4. The VA examinations addressing bilateral hallux valgus and pes planus were inadequate because VA posed an incorrect or nonsensical legal question and the examiners applied that improper standard or provided insufficient rationale.
5. The Board failed to provide adequate reasons or bases for denying service connection for CFS, denying a rating above 10% for GERD, and denying a compensable rating for left-knee surgical scars.

KEY QUOTATIONS

"Congress decided that only favorable findings would be binding on subsequent adjudicators." (13-14)

"Thus, a finding is only binding if it is advantageous or helps the claimant." (14)

"If the question posed by VA contains an incorrect, nonsensical standard and the examiner responds to that question by reiterating the incorrect standard, then the Board was not sufficiently informed on that matter." (12)

“But it is for the Board to discuss that evidence and weigh it against the other evidence of record.” (18)

FACTUAL BACKGROUND

Ortega served on active duty in the Army Reserve during three periods between February 2009 and October 2018. A November 2008 entrance examination noted mild asymptomatic bilateral hallux valgus and pes planus, but later examinations reported normal feet or no foot symptoms. VA obtained examinations using a premise and aggravation standard that treated the foot conditions as clearly preexisting, and the Board relied on that premise while overlooking contrary evidence. The Board also failed to adequately address favorable evidence concerning chronic fatigue syndrome, GERD symptoms, and symptomatic left-knee scar tissue.

PROCEDURAL HISTORY

The agency of original jurisdiction granted service connection for cephalgia with a 30% rating, continued ratings for GERD and left-knee surgical scars, and denied service connection for chronic fatigue syndrome, bilateral hallux valgus, and bilateral pes planus. Ortega appealed to the Board under the evidence-submission docket. The Board granted a 50% cephalgia rating but denied the remaining claims. The Court affirmed the cephalgia rating, vacated the denials concerning the bilateral foot conditions, chronic fatigue syndrome, GERD, and left-knee scars, and remanded those matters.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The AOJ must obtain new foot examinations applying the correct standards concerning preexisting conditions, the presumption of soundness, direct service connection, and aggravation. The AOJ must not treat the flawed finding that the foot disabilities preexisted service as binding because it was not favorable. The Board must readjudicate the CFS, GERD, and left-knee scar claims, address the identified favorable evidence, correct the GERD appeal-period date to January 17, 2020, and proceed consistently with the opinion.

CASES CITED

- Frankel v. Derwinski, 1 Vet.App. 23, 25-26 (1990)
- Robinson v. Peake, 21 Vet.App. 545, 552-53 (2008), aff'd sub nom. Robinson v. Shinseki, 557 F.3d 1355 (Fed. Cir. 2009)
- Shinseki v. Sanders, 556 U.S. 396, 409-410 (2009)
- Slaughter v. McDonough, 29 F.4th 1351, 1355 (Fed. Cir. 2022)
- Bilharz v. Collins, 38 Vet.App. 366, 377 (2025)
- Locklear v. Nicholson, 20 Vet.App. 410, 416 (2006)
- Evans v. West, 12 Vet.App. 22, 31 (1998)
- Mathews v. Eldridge, 424 U.S. 319, 333 (1976)
- Armstrong v. Manzo, 380 U.S. 545, 552 (1965)

- *Bolds v. McDonough*, 37 Vet.App. 359, 367 (2024)
- *Andrews v. McDonough*, 34 Vet.App. 151, 160 (2021)
- *Teva Pharm. USA, Inc. v. Novartis Pharm. Corp.*, 482 F.3d 1330, 1337-38 (Fed. Cir. 2007)
- *Local No. 8-6, Oil, Chem. & Atomic Workers Int'l Union v. Missouri*, 361 U.S. 363, 367 (1960)
- *PDK Laboratories Inc. v. DEA*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in the judgment)
- *Caluza v. Brown*, 7 Vet.App. 498, 506 (1995), *aff'd per curiam*, 78 F.3d 604 (Fed. Cir. 1996)
- *Jensen v. Brown*, 19 F.3d 1413, 1417 (Fed. Cir. 1994)
- *Monzingo v. Shinseki*, 26 Vet.App. 97, 105 (2012)
- *Nieves-Rodriguez v. Peake*, 22 Vet.App. 295, 304 (2008)
- *Quirin v. Shinseki*, 22 Vet.App. 390, 395 (2009)
- *Gladish v. Collins*, 39 Vet.App. 1, 14 (2025)
- *Tucker v. West*, 11 Vet.App. 369, 374 (1998)
- *Gilbert v. Derwinski*, 1 Vet.App. 49, 56-57 (1990)
- *Best v. Principi*, 15 Vet.App. 18, 19 (2001)
- *Kay v. Principi*, 16 Vet.App. 529, 534 (2002)
- *Kutscherousky v. West*, 12 Vet.App. 369, 372-73 (1999) (*per curiam* order)
- *Clark v. O'Rourke*, 30 Vet.App. 92, 97 (2018)
- *Rowell v. Principi*, 4 Vet.App. 9, 15 (1993)
- *United States v. Sineneng-Smith*, 590 U.S. 371, 375-76 (2020)
- *Witkowski v. Collins*, 38 Vet.App. 459, 470 (2025) (*en banc*)
- *Thun v. Peake*, 22 Vet.App. 111, 115 (2008), *aff'd sub nom. Thun v. Shinseki*, 572 F.3d 1366 (Fed. Cir. 2009)
- *Bell v. McDonough*, 85 F.4th 1383, 1385 (Fed. Cir. 2023)
- *Patton v. West*, 12 Vet.App. 272, 283 (1999)
- *Kamen v. Kemper Financial Services, Inc.*, 500 U.S. 90, 99 (1991)
- *U.S. National Bank of Oregon v. Independent Insurance Agents of America, Inc.*, 508 U.S. 439, 447 (1993)
- *Memphis Light, Gas & Water Division v. Craft*, 436 U.S. 1, 13 (1978)
- *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306, 314 (1950)
- *Mennonite Board of Missions v. Adams*, 462 U.S. 791, 800 (1983)
- *Cushman v. Shinseki*, 576 F.3d 1290, 1298 (Fed. Cir. 2009)
- *Thurber v. Brown*, 5 Vet.App. 119, 123 (1993)
- *Wiker v. McDonough*, 36 Vet.App. 119, 126 (2023)
- *Cook v. McDonough*, 36 Vet.App. 175, 189 (2023)
- *Simmons v. Wilkie*, 30 Vet.App. 267, 279 (2018), *aff'd*, 964 F.3d 1381 (Fed. Cir. 2020)
- *Tadlock v. McDonough*, 5 F.4th 1327, 1337-38 (Fed. Cir. 2021)
- *Wagner v. United States*, 365 F.3d 1358, 1365 (Fed. Cir. 2004)
- *Cowan v. McDonough*, 35 Vet.App. 232, 249 (2022)

- Rosinski v. Shulkin, 29 Vet.App. 183, 197 (2018)
- Comer v. Peake, 552 F.3d 1362, 1369 (Fed. Cir. 2009)
- Hodge v. West, 155 F.3d 1356, 1363 (Fed. Cir. 1998)

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