

21-234 GEORGE V. McDONOUGH

DECISION BELOW: 991 F.3d 1227

LOWER COURT CASE NUMBER: 19-1916

QUESTION PRESENTED:

In the veterans-benefits system, Congress has provided that an otherwise-final agency decision is subject to revision if that decision is based on “clear and unmistakable error.” Here, the Federal Circuit held that the agency’s application of a regulation that conflicts with the plain meaning of a statute cannot amount to “clear and unmistakable error.” The Federal Circuit reasoned that a federal court’s later invalidation of such a regulation is merely a change in interpretation of the law. But this Court has made clear that when a court interprets the plain meaning of a statute, it is not announcing a change but rather declaring what the statute has always meant. An agency regulation that departs from that plain meaning is—and always was—legally invalid. And if the agency relied on that unlawful regulation in an adjudication, that adjudication is infected with a legal error that is clear and unmistakable on the face of the ruling.

The question presented is: When the Department of Veterans Affairs (VA) denies a veteran’s claim for benefits in reliance on an agency interpretation that is later deemed invalid under the plain text of the statutory provisions in effect at the time of the denial, is that the kind of “clear and unmistakable error” that the veteran may invoke to challenge VA’s decision?

CERT. GRANTED 1/14/2022