

CHISHOLM CHISHOLM & KILPATRICK LTD
321 S Main St #200
Providence, Rhode Island 02903
(401) 331-6300
(401) 421-3185 FAX



July 9, 2024

Tiffany M. Wagner
Clerk, U.S. Court of Appeals for Veterans Claims
625 Indiana Avenue, NW, Suite 900
Washington, DC 20004-2950

Re: CAVC Case No. 22-1018, Laska v. McDonough
Supplemental Citation of Authority

Dear Ms. Wagner:

Pursuant to U.S. Court of Appeals for Veterans Claims' Rule of Practice and Procedure 30(b), Appellant provides the following supplemental authority: *Loper Bright Enter. v. Raimondo*, -- S.Ct. -- , 2024 WL 3208360 (2024).

In *Loper Bright*, the U.S. Supreme Court overruled its decision in *Chevron v. Nat'l Resources Def. Council*, 104 S.Ct. 2778 (1984). 2024 WL 3208360 at *22. The Court held that *Chevron's* mandate—that a court defer to an agency's permissible interpretation of an ambiguous statute—violated the Administrative Procedures Act's directive that courts decide legal questions. *Id.* at *15. Following *Loper Bright*, "Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority." *Id.* at 22. They "need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Id.*

The Supreme Court's holding is relevant to Ms. Laska's argument that the Court should not defer to VA's interpretation of 38 U.S.C. § 1114(t) as requiring a showing that a veteran needs a "higher level of care." Appellant's Br. at 21-22;

Appellant's Reply Br. at 13-14. It is also relevant to the Secretary's argument that the Court should adopt his interpretation because section 1114(t) "is not clear on its face," and his regulation "constitutes a permissible interpretation of [section] 1114 as a whole." Secretary's Br. at 11.

Thus, Ms. Laska provides the Supreme Court's decision in *Loper Bright* as supplemental authority.

Respectfully submitted,
/s/ Amy F. Odom
Amy F. Odom
Chisholm Chisholm & Kilpatrick
321 S Main St #200
Providence, RI 02903
(401) 331-6300 (Telephone)
(401) 421-3185 (Facsimile)

Counsel for Appellant