Federal Court Cour fédérale

Date: 20251015

Docket: T-1196-24

Citation: 2025 FC 1531

2025 FC 1531 (CanLII)

[ENGLISH TRANSLATION]

Vancouver, British Columbia, October 15, 2025

PRESENT: The Honourable Justice Benoit M. Duchesne

BETWEEN:

STEVE LANGLOIS

Applicant

and

HIS MAJESTY THE KING

Respondent

JUDGMENT AND REASONS

[1] The applicant seeks judicial review of a decision of the National Second Level Appeals Unit of Veterans Affairs Canada dated April 25, 2024 [hereinafter the Decision, the Decision-maker and VAC]. In that decision, VAC denied the applicant's application for an Education and Training Benefit (ETB) made under the *Veterans Well-being Act*, SC 2005, c 21 [VWA] and the *Veterans Well-being Regulations*, SOR/2006-50 [Regulations].

[2] The Decision-maker concluded that the applicant's ETB application should be denied because the applicant had begun and completed his training prior to submitting his training plan to the Minister of VAC for approval, thereby rendering him ineligible for payment of an ETB. The Decision-maker interpreted and applied the provisions of the VWA in light of the facts in the record. It then found that Parliament, in enacting the provisions of Part 1.1 of the VWA, did not provide for the payment of an ETB to cover education or training costs incurred before an application for eligibility for the ETB program is filed. The Decision-maker concluded that payment of an ETB under Part 1.1 of the VWA applies only to qualifying education and training that is prospective.

[3] The Decision sets out the Decision-maker's decision-making process. It is clear from the Decision and the evidence in the record that the Decision-maker considered the facts, the evidence submitted by the applicant, and the legal constraints governing eligibility for an ETB under the VWA and the Regulations. The Decision-maker also took into account the submissions the applicant had raised before it.

[4] Despite his eloquent arguments, the applicant has not established that the Decision is vitiated by a failure of justification or by an error sufficiently central or significant to render the Decision unreasonable.

[5] The applicant's application is therefore dismissed, for the following reasons.

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I. **Background**

[6] There is no dispute between the parties regarding the facts of the case.

[7] The applicant is a Canadian Armed Forces [CAF] regular force veteran with more than 22 years of service who took part in operational missions overseas.

[8] In September 2011, the applicant was deployed to Haiti. After some difficult experiences there, he applied for release from the CAF. At the end of March 2012, the applicant returned to Canada, and on May 16, 2012, he was honourably released from the CAF.

[9] In April 2015, the applicant began an osteopathic training program at Académie Sutherland d'ostéopathie du Québec in Montreal. He completed his training over the next seven years and obtained his diploma in January 2023.

[10] In late December 2022, the applicant became aware that VAC administers an education and training funding program for veterans. On December 29, 2022, the applicant submitted an application to VAC. In an email to VAC dated December 29, 2022, the applicant stated that his application for funding was being submitted late not because of carelessness, but because he had been unaware of the existence of the ETB program.

[11] On December 30, 2022, the applicant received a letter from VAC informing him that his ETB application had been approved under section 5.2 of the VCA. The letter also informed him that he had to submit a completed copy of the Education and Training Benefit–Formal Program

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Plan form (VAC 1547), along with proof of enrolment from the educational institution, or of the Education and Training Plan–Short Course form (VAC 1549), and that his program plan had to be approved prior to the start date of the program or course for him to receive approval for payment of the ETB.

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[12] On January 13, 2023, the applicant filled out VAC 1547, provided the official program plan details requested, and submitted it to VAC. The applicant indicated on the form that his program of study began on September 18, 2015, and that he planned to complete it on January 20, 2023. He also entered the total cost of the program, i.e., $44,376.48, as well as the multiple tuition payments he had made in April 2015, January 2016, January 2017, January 2018, January 2019, January 2020, January 2021, and January 2023. It is clear that the program plan he forwarded could not be submitted and approved before the start of the program as indicated in the letter of December 30, 2022, since the applicant made the application more than 7 years after his training program began.

[13] On January 20, 2023, the applicant obtained his diploma in osteopathy. On January 22, 2023, he informed VAC. The applicant completed his studies and obtained his diploma before his ETB payment application was approved by VAC.

II. **VAC's Decision on the ETB Application**

[14] On January 24, 2023, VAC denied the applicant's ETB application for three reasons:

1. The educational institution identified in the application is not included in Employment and Social Development Canada's [ESDC] list of designated educational institutions;

2. The course of study does not lead to a degree, diploma, certification or post-secondary designation; and
3. The education or training he intends to complete must be pre-approved by VAC and cover a future period. A payment could not be made because the applicant had already completed his education or training when he filed the application.

III. **The Application for Review Before the National First Level Appeals Unit**

[15] On February 20, 2023, the applicant filed an application for review of the decision by the National First Level Appeals Unit.

[16] In his application for review, the applicant stated his opinion that VAC lacked additional information when it made its decision. The applicant submitted that the educational institution where he completed his osteopathic training is indeed on ESDC's list, even though this is not required by the VWA, and that the osteopathic course of study leads to a diploma.

[17] The applicant submitted that he considers it unfair that his eligibility for the ETB was denied in 2023 because he did not comply with the formal requirement to submit an application for funding before beginning the training. He argued that section 78.1 of the VWA expressly allows the Minister and his agents to waive the requirement for an application for an ETB. He further submitted that VAC policy 2684 on the waiver of the requirement to apply for an ETB provides that the Minister has the discretion to grant the waiver when VAC is in possession of almost all of the information necessary to complete a decision on eligibility for the program.

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[18] Given the personal circumstances which he detailed in his review application surrounding his application for release from the CAF, as well as the fact that he had been unaware of the ETB program until late December 2022, the applicant asked the Minister to grant him a retroactive waiver of the requirement to file an eligibility application for the ETB program.

[19] In his review application before the National First Level Appeals Unit, the applicant admitted that VAC Policy 2685 provides that no retroactive payments may be made for education or training that has already been completed. He maintained, however, that there is nothing in the VWA or the Regulations that prevents the Minister from authorizing payment of an ETB for training that has already been completed.

[20] He further submitted that subsections 5.9(1) and (3) of the VWA allow the Minister to pay an ETB after the day on which it ceases to be payable, just as section 5.4 of the VWA allows the Minister to pay an education and training completion bonus to a veteran.

[21] The applicant contended that section 2.1 of the VWA sets out the legislation's purpose and that the VWA must be read in light of the principle that a statute is to be interpreted so as to permit its full realization. Reading the VWA in accordance with this principle, he argues, gives the Minister the authority to pay the applicant an ETB for training he has already completed.

[22] Lastly, the applicant requested that the National First Level Appeals Unit find that the Minister should exercise his authority under section 5.5 of the VWA and section 5.06 of the Regulations, recognize Académie Sutherland d'ostéopathie du Québec as an eligible professional osteopathy training institution, and authorize the payment of the ETB.

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IV. **The Decision of the National First Level Appeals Unit**

[23] The National First Level Appeals Unit allowed the application for review in part but dismissed it on its merits. The salient reasons for the decision dismissing the application for review read as follows:

> [TRANSLATION]
>
> We have reviewed your file, and we understand that you submitted your application for funding for the osteopathy course at Académie Sutherland d'ostéopathie du Québec ASOQ on January 13, 2023. Your period of study, however, began on September 18, 2015. We have determined that your training was not pre-approved and that your period of study began prior to the date you submitted your education and training plan. Accordingly, you are not eligible for funding for your osteopathy diploma training.
>
> We therefore confirm the original decision.

V. **The Application for Review before the National Second Level Appeals Unit**

[24] On June 8, 2023, the applicant filed an application for review of the National First Level Appeals Unit decision with the National Second Level Appeals Unit.

[25] The applicant began his second review application by noting that his ETB application had been denied for the following reasons: (a) his period of study began on September 18, 2015, and (b) it had not been pre-approved with an education and training plan.

[26] The applicant's review application repeated the arguments he had made in support of his review application before the National First Level Appeals Unit nearly word for word. He added, however, that VAC policies cannot limit the powers and discretion conferred on the Minister by

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the VWA. The applicant's argument was that his ETB application was consistent with the objectives of the ETB program and should be approved even if it did not meet the [TRANSLATION] "usual" program requirements.

VI. **The Decision**

[27] The National Second Level Appeals Unit dismissed the applicant's second application for review and upheld the decision of the National First Level Appeals Unit. The Decision confirmed that the applicant's file was carefully and attentively reviewed. The salient portions of the Decision read as follows:

> [TRANSLATION]
>
> According to the Act and VAC policies, the ETB is a benefit introduced in 2018 to help veterans successfully transition from military to civilian life, achieve their post-military education goals, and better position themselves to be more competitive in the civilian workforce. Funding for formal education and training programs is provided to eligible veterans to pursue further training and education at the post-secondary level.
>
> To be eligible for the ETB, veterans must first make an application. According to the Regulations (*Veterans Well-being Regulations*), applications for benefits under the Act should be made "in writing". However, VAC may waive the requirement for an application if VAC believes, based upon information that has been collected or obtained by VAC as part of its ongoing administration of programs and services and daily operations, that the person may be eligible for the benefit (compensation, service or assistance; compensation may be an education and training benefit) if the person applied for it. If, following review of the information that has been collected or obtained, VAC believes that a person may be eligible for a benefit or service, VAC may notify the person of its intent to waive the requirement to file an application. It should be noted that waivers apply to first-level eligibility decisions only. Accordingly, they do not apply to review decisions (National First and Second Level Appeals Units).

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> After VAC confirms a veteran's eligibility for the ETB, the veteran may have access to funding for formal education and training programs. To receive funding, the program of study must meet certain criteria; for example, it must lead to a degree, diploma, certification, or designation. Paragraph 5.3(2) requires that a veteran requesting a benefit under paragraph (1)(a) provide the Minister with proof of acceptance, enrolment or registration at the institution for an upcoming period of study along with any prescribed information. Accordingly, the veteran must develop and submit an education and training plan to VAC, along with all the information needed to lead to a decision, before the educational program begins. Retroactive payments for education or training that has already been begun or completed cannot be made. It should also be noted that the intent is not to provide the full entitlement amount if the cost and duration of the program do not require it. Veterans honourably released between April 1, 2006, and March 31, 2018, have until April 1, 2028, to receive funding.
>
> The information in your file was reviewed carefully and attentively. According to the available information, you submitted an application for ETB eligibility to VAC on December 29, 2022, and that application was approved on December 30, 2022. On January 13, 2023, you submitted your official program plan for your osteopathy training program at the educational institution of Académie Sutherland d'ostéopathie du Québec. This plan showed that your training began on September 18, 2015, and was spread out over seven years, ending on January 20, 2023. As explained above, since your training started before the the submission of your training plan, I cannot approve its funding. Based on the information in your file, I must confirm the previous decision.

[28] The applicant then filed an application for judicial review of that Decision with this Court.

VII. **The Issue**

[29] The issue is whether the Decision is unreasonable.

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VIII. **The Standard of Review**

[30] The parties argue that the applicable standard of review is reasonableness. I agree.

[31] In *Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at paragraph 35 [*Pepa*], the Supreme Court of Canada reiterated how the standard of review is determined, as follows:

> [35] *Vavilov* established a presumption that when a court reviews the merits of an administrative decision, the standard of review is reasonableness. This presumption is rebutted in two circumstances. The first is where the legislature has either (A) indicated an intent for a different standard to apply by explicitly prescribing the standard of review, or (B) provided for an appeal from an administrative decision to a court (para. 17; see also *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21, at para. 40; *Canada Post Corp. v. Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 S.C.R. 900, at para. 27). The second is where the rule of law requires that the standard of correctness be applied (*Vavilov*, at para. 17; *Mason*, at para. 39; *Canada Post Corp.*, at para. 27). This second category includes three sub-groups: constitutional questions, general questions of law of central importance to the legal system as a whole, and questions related to the jurisdictional boundaries between two or more administrative bodies (*Vavilov*, at para. 17; *Mason*, at para. 41).

[32] In paragraphs 46 to 49 of the same decision, the Supreme Court of Canada summarized how the standard of review is to be applied to an administrative decision, as follows:

> [46] Administrative decision makers hold "the interpretative upper hand" (*Canada Post Corp.*, at para. 40, quoting *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, at para. 40). A principled approach to the reasonableness review begins by examining the reasons provided and "seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion" (*Vavilov*, at para. 84). The reasons are reviewed to determine if they led to a decision that was based on an internally coherent and rational chain of analysis

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and that is justified in relation to the facts and law that constrain the decision maker (paras. 84-85).

[47] Under this "reasons first" approach, reviewing courts should remember that "the written reasons given by an administrative body must not be assessed against a standard of perfection", and need "not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred" (*Vavilov*, at paras. 84 and 91, quoting *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at para. 16). What is required will depend on the context (*Canada Post Corp.*, at para. 30). The reviewing judge must read the decision maker's reasons "holistically and contextually" (*Vavilov*, at para. 97), "in light of the history and context of the proceedings in which they were rendered", including "the evidence before the decision maker, the submissions of the parties, publicly available policies or guidelines that informed the decision maker's work, and past decisions of the relevant administrative body" (para. 94).

[48] Reviewing courts should not ask how they themselves would have resolved an issue, but should instead focus on whether the decision made by the administrative decision maker — including both the rationale for the decision and the outcome to which it led — was unreasonable (*Vavilov*, at paras. 75 and 83). A reviewing court should not create its "own yardstick and then use [it] to measure what the [administrative decision maker] did" (para. 83, and *Canada Post Corp.*, at para. 40, both quoting *Delios v. Canada (Attorney General)*, 2015 FCA 117, 100 Admin. L.R. (5th) 301, at para. 28). Nor should a reviewing court ask "what decision it would have made in place of that of the administrative decision maker, attempt to ascertain the 'range' of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the 'correct' solution to the problem" (*Vavilov*, at para. 83; see also *Canada Post Corp.*, at para. 40).

[49] Any flaws relied upon by the party challenging the decision must be "sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para. 100). *Vavilov* specified two kinds of "fundamental flaws" that indicate an administrative decision is unreasonable: (1) a failure of rationality internal to the reasoning process; and (2) a failure of justification given the legal and factual constraints bearing on the decision (para. 101). A reviewing court is not required to classify unreasonableness into one of these categories, as they are merely useful descriptions for understanding how a decision might be unreasonable (para. 101).

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[33] In *Pepa*, the Supreme Court of Canada considered the standard of review applicable when an administrative decision-maker is called upon to interpret a statutory provision, even where multiple interpretations of the same provision are possible. Applying the framework set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] and *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*], the Court reiterated that, when a matter of statutory interpretation does not involve a general question of law of central importance to the legal system as a whole, a constitutional question, or a question related to the jurisdictional boundaries between two or more administrative bodies, the applicable standard of review is reasonableness, in accordance with the presumption established in *Vavilov* [*Pepa* at paras 38 and 39].

[34] This case raises no statutory interpretation issue that is a general question of law of central importance to the legal system as a whole, or a constitutional question, or a question related to the jurisdictional boundaries between two or more administrative bodies. I therefore conclude, like the Supreme Court of Canada in *Pepa*, that the standard of review for the decision of the National Second Level Appeals Unit in this case is reasonableness.

[35] As the Supreme Court of Canada stated in paragraph 124 of *Vavilov*, a reviewing court should pause before definitively pronouncing upon the interpretation of a provision entrusted to an administrative decision-maker:

> [124] Finally, even though the task of a court conducting a reasonableness review is *not* to perform a *de novo* analysis or to determine the "correct" interpretation of a disputed provision, it may sometimes become clear in the course of reviewing a decision that the interplay of text, context and purpose leaves room for a single reasonable interpretation of the statutory provision, or aspect

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> of the statutory provision, that is at issue: *Dunsmuir*, at paras. 72–76. One case in which this conclusion was reached was *Nova Tube Inc./Nova Steel Inc. v. Conares Metal Supply Ltd*., 2019 FCA 52, in which Laskin J.A., after analyzing the reasoning of the administrative decision maker (at paras. 26–61 (CanLII)), held that the decision maker's interpretation had been unreasonable, and, furthermore, that the factors he had considered in his analysis weighed so overwhelmingly in favour of the opposite interpretation that that was the only reasonable interpretation of the provision: para. 61. As discussed below, it would serve no useful purpose in such a case to remit the interpretative question to the original decision maker. Even so, a court should generally pause before definitively pronouncing upon the interpretation of a provision entrusted to an administrative decision maker.

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[36] At paragraph 51 of *Pepa*, citing *Vavilov*, the Supreme Court of Canada also stated that a decision reviewed on the standard of reasonableness may suffer from a failure of justification in light of the legal and factual constraints where the decision is untenable in light of:

> ". . . the governing statutory scheme; other relevant statutory or common law; the principles of statutory interpretation; the evidence before the decision maker and facts of which the decision maker may take notice; the submissions of the parties; the past practices and decisions of the administrative body; and the potential impact of the decision on the individual to whom it applies" (*Vavilov*, at para. 106; see also paras. 99-115).

[37] When interpreting legislation, administrative decision-makers must consider the constraints imposed by the modern principles of statutory interpretation. Failure to conduct a statutory interpretation analysis is not fatal on its own, because administrative decision-makers are not required to engage in a formalistic statutory interpretation exercise in every case. Nonetheless, the merits of an administrative decision-maker's interpretation must be consistent with the text, context, and purpose of the provision, and must apply the usual principles of statutory interpretation, which involve reading the words in their entire context and in their

grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament (*Pepa* at paras 63 and 87; *Vavilov* at para 120).

IX. **The Legislative Framework**

[38] The *Budget Implementation Act, 2017, No 1*, SC 2017, c 20, assented to on June 22, 2017, amended the VWA and, among other things, added Part 1.1 setting out the ETBs and the eligibility requirements for veterans to apply for an ETB and receive payment thereof. The Regulations were amended accordingly.

[39] The provisions of the VWA that are of interest in this case read as follows:

Definitions	**Définitions**
2 (1) The following definitions apply in this Act.	**2 (1)** Les définitions qui suivent s'appliquent à la présente loi.
Canadian Forces means the armed forces referred to in section 14 of the *National Defence Act*, and includes any predecessor naval, army or air forces of Canada or Newfoundland.	***Forces canadiennes*** Les forces armées visées à l'article 14 de la *Loi sur la défense nationale*, ainsi que les forces navales, les forces de l'armée ou les forces aériennes du Canada ou de Terre-Neuve qui les ont précédées.
Compensation means any of the following benefits under this Act, namely, an education and training benefit, an education and training completion bonus, an income replacement benefit, a Canadian Forces income support benefit, a critical injury benefit, a disability	***Indemnisation*** Allocation pour études et formation, prime à l'achèvement des études ou de la formation, prestation de remplacement du revenu, allocation de soutien du revenu, indemnité pour blessure grave, indemnité d'invalidité, indemnité pour douleur et souffrance,

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award, pain and suffering compensation, additional pain and suffering compensation, a death benefit, a clothing allowance, a detention benefit or a caregiver recognition benefit.

indemnité supplémentaire pour douleur et souffrance, indemnité de décès, allocation vestimentaire, indemnité de captivité ou allocation de reconnaissance pour aidant prévues par la présente loi.

Purpose

2.1 The purpose of this Act is to recognize and fulfil the obligation of the people and Government of Canada to show just and due appreciation to members and veterans for their service to Canada. This obligation includes providing services, assistance and compensation to members and veterans who have been injured or have died as a result of military service and extends to their spouses or common-law partners or survivors and orphans. This Act shall be liberally interpreted so that the recognized obligation may be fulfilled.

Objet

2.1 La présente loi a pour objet de reconnaître et d'honorer l'obligation du peuple canadien et du gouvernement du Canada de rendre un hommage grandement mérité aux militaires et vétérans pour leur dévouement envers le Canada, obligation qui vise notamment la fourniture de services, d'assistance et de mesures d'indemnisation à ceux qui ont été blessés par suite de leur service militaire et à leur époux ou conjoint de fait ainsi qu'au survivant et aux orphelins de ceux qui sont décédés par suite de leur service militaire. Elle s'interprète de façon libérale afin de donner effet à cette obligation reconnue.

PART 1.1

Education and Training Benefit

PARTIE 1.1

Allocation pour études et formation

Definitions

5.11 The following definitions apply in this Part.

Définitions

5.11 Les définitions qui suivent s'appliquent à la présente partie.

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Regular force has the same meaning as in subsection 2(1) of the *National Defence Act*.

Reserve force has the same meaning as in subsection 2(1) of the *National Defence Act*.

Supplementary Reserve has the meaning assigned by article 2.034 of the *Queen's Regulations and Orders for the Canadian Forces*.

Veteran means a former member or a member of the Supplementary Reserve.

Force de réserve S'entend au sens du paragraphe 2(1) de la *Loi sur la défense nationale*.

Force régulière S'entend au sens du paragraphe 2(1) de la *Loi sur la défense nationale*.

Réserve supplémentaire S'entend au sens de l'article 2.034 des *Ordonnances et règlements royaux applicables aux Forces canadiennes*.

Vétéran Ex-militaire ou militaire de la Réserve supplémentaire.

Eligibility — veterans

5.2 (1) The Minister may, on application, pay an education and training benefit to a veteran in accordance with section 5.3 or 5.5 if the veteran

(a) served for a total of at least six years in the regular force, in the reserve force or in both; and

(b) was honourably released from the Canadian Forces on or after April 1, 2006 or was transferred from the regular force or another subcomponent of the reserve force to the Supplementary Reserve on or after that date.

Admissibilité : vétéran

5.2 (1) Le ministre peut, sur demande, verser une allocation pour études et formation au vétéran, en conformité avec les articles 5.3 ou 5.5, si celui-ci, à la fois :

a) a servi pendant au moins six ans au total dans la force régulière ou dans la force de réserve, ou dans les deux;

b) a été libéré honorablement des Forces canadiennes le 1er avril 2006 ou après cette date ou a été transféré de la force régulière ou d'un sous-élément de la force de réserve à la Réserve supplémentaire à cette date ou après celle-ci.

Maximum cumulative amount

(2) The maximum cumulative amount that the Minister may

Somme cumulative maximale

(2) La somme cumulative maximale qui peut être versée

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pay to a veteran is $40,000 or, if the veteran served for a total of at least 12 years in the regular force, in the reserve force or in both, $80,000.

au vétéran est de 40 000 $ ou, s'il a servi pendant au moins douze ans au total dans la force régulière ou dans la force de réserve, ou dans les deux, 80 000 $.

(3) [Repealed, 2019, c. 29, s. 319]

(3) [Abrogé, 2019, ch. 29, art. 319]

Course of study at educational institution

Programme d'études : établissement d'enseignement

5.3 (1) An education and training benefit may be paid to a veteran entitled to a benefit under this Part in respect of

5.3 (1) L'allocation pour études et formation peut être versée aux fins suivantes :

(a) education or training received from an educational institution as part of a course of study leading to the completion of a degree, diploma, certification or designation; and

a) les cours ou la formation suivis dans un établissement d'enseignement, dans le cadre d'un programme d'études en vue de l'obtention d'un diplôme, d'un certificat ou d'un titre;

(b) any expenses, including living expenses, that may be incurred by the veteran while enrolled at the institution.

b) les frais, notamment de subsistance, encourus par le vétéran pendant qu'il est inscrit à cet établissement.

Request for payment

Demande

(2) A veteran requesting payment in respect of education or training described in paragraph (1)(a) shall provide the Minister with proof of acceptance, enrolment or registration at the institution for an upcoming period of study and with any prescribed information.

(2) Le vétéran qui demande un versement au titre de l'allocation aux fins prévues à l'alinéa (1)a) fournit au ministre une preuve d'inscription ou d'admission à l'établissement pour toute période d'études à venir ainsi que les renseignements réglementaires.

Additional information

Renseignements supplémentaires

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(3) The Minister may request that the veteran provide the Minister with additional information for the purpose of making the determination under subsection (4).

(3) Le ministre peut demander que le vétéran lui communique des renseignements supplémentaires afin de prendre la décision visée au paragraphe (4).

Minister's determination

(4) On being provided with the proof and information, the Minister shall, if he or she is satisfied that the requested payment may be made to the veteran, determine

Décision du ministre

(4) Sur réception de la preuve et des renseignements et s'il est convaincu que le versement demandé peut être fait, le ministre, à la fois :

(a) the amount of the payment;

a) fixe le montant du versement;

(b) the period of study to which that amount is allocated; and

b) décide de la période d'études à laquelle il sera appliqué;

(c) the day on which the payment is to be made.

c) décide de la date du versement.

Payment day

(**5)** The day on which the payment is to be made must be no earlier than the 60th day before

Date de versement

(5) Le versement au titre de l'allocation ne peut être fait avant le soixantième jour précédant la date à laquelle les frais associés aux études ou à la formation doivent être acquittés auprès de l'établissement pour la période d'études en cause ou, si aucune date n'a été fixée, avant le soixantième jour précédant le début de cette période.

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(a) the day on which fees for the education or training are due to be paid to the institution in respect of the period of study; or

(b) the day on which the period of study begins, if the institution fixes no day on which the fees are due.

Waiver

Waiver of requirement for application

78.1 (1) The Minister may waive the requirement for an application for compensation, career transition services, rehabilitation services or vocational assistance under this Act if he or she believes, based on information that has been collected or obtained by him or her in the exercise of the Minister's powers or the performance of the Minister's duties and functions, that a person may be eligible for the compensation, services or assistance if they were to apply for it.

Notice of intent

(2) If the Minister intends to waive the requirement for an application in respect of a person, the Minister shall notify the person in the prescribed manner of that intention.

Dispense

Dispense de l'obligation de présenter une demande

78.1 (1) Le ministre peut dispenser une personne de l'obligation de présenter une demande d'indemnisation, de services de réorientation professionnelle, de services de réadaptation ou d'assistance professionnelle visés par la présente loi s'il estime, d'après les renseignements qu'il a obtenus dans l'exercice de ses attributions, que la personne pourrait être admissible à cette indemnisation, à ces services ou à cette assistance si elle présentait une demande.

Notification

(2) S'il entend dispenser une personne de l'obligation de présenter une demande, le ministre l'en avise selon les modalités prévues par règlement.

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Accepting waiver

(3) The person may accept to have the requirement for an application waived by notifying the Minister in the prescribed manner of their decision to accept the waiver and, in that case, the person shall, in any period specified by the Minister, provide him or her with any information or document that he or she requests.

Acceptation

(3) La personne peut accepter d'être dispensée de cette obligation en avisant le ministre, selon les modalités prévues par règlement, de sa décision; elle est alors tenue de fournir au ministre les renseignements ou les documents que celui-ci demande dans le délai qu'il fixe.

Date of waiver

(4) The requirement for an application is waived on the day on which the Minister receives the person's notice of their decision to accept the waiver of the requirement.

Date de la dispense

(4) La dispense est octroyée à la date où le ministre reçoit l'avis d'acceptation.

Minister may require application

(5) The Minister may, at any time after he or she notifies the person of his or her intention to waive the requirement for an application and for any reason that he or she considers reasonable in the circumstances, including if the person does not provide the Minister with the information that he or she requested in the period that he or she specifies, require that the person make an application and, in that case, the Minister shall notify the person in writing of that requirement.

Demande exigée par le ministre

(5) Le ministre peut, à tout moment après avoir avisé la personne qu'il entend lui accorder une dispense et pour toute raison qu'il estime raisonnable dans les circonstances, exiger que cette personne présente une demande, notamment si elle n'a pas fourni les renseignements demandés dans le délai fixé; le cas échéant, le ministre l'en avise par écrit.

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Waiver cancelled	**Dispense annulée**
(6) A waiver is cancelled on the day on which the Minister notifies the person that they are required to make an application.	**(6)** La dispense est annulée à la date où le ministre avise la personne qu'elle doit présenter une demande.
Effect of waiver	**Effet de la dispense**
78.2 (1) If the requirement for an application for compensation, career transition services, rehabilitation services or vocational assistance under this Act is waived by the Minister, the application is deemed to have been made on the day on which the requirement is waived.	**78.2 (1)** Lorsque le ministre dispense une personne de l'obligation de présenter une demande d'indemnisation, de services de réorientation professionnelle, de services de réadaptation ou d'assistance professionnelle visés par la présente loi, la demande est réputée avoir été présentée à la date de l'octroi de la dispense.
Effect of cancelling waiver	**Effet de l'annulation de la dispense**
(2) Despite subsection (1), if the waiver is cancelled after the day on which the Minister receives the person's notice of their decision to accept the waiver, no application is deemed to have been made.	**(2)** Malgré le paragraphe (1), si la dispense est annulée après la date où le ministre reçoit l'avis d'acceptation, aucune demande n'est réputée avoir été présentée.

[40] The Regulations and VAC policies, although raised by the parties in some respects, are not discussed in the Decision under review. It is not necessary to consider them for the purposes of this judgment. Therefore, those provisions will not be reproduced here.

X. **The Parties' Submissions**

A. ***The Applicant's Submissions***

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[41] The applicant submits that the Decision is unreasonable on two grounds.

[42] First, the applicant argues that the interpretation of the term *"pour toute période d'études à venir"* ("for an upcoming period of study") adopted in the Decision in relation to subsection 5.3(2) of the VWA is an expedient reading of the words of the Act, takes no account of the text, context or purpose, and fails to make any real effort to discern the meaning of the words and the legislative intent, contrary to *Vavilov* (*Vavilov* at para 121). To support his position, he submits that the interpretation of subsection 5.3(2) adopted in the Decision is unreasonable because:

(a) the Decision-maker made no effort to discern the meaning of subsection 5.3(2) of the VWA;

(b) the plain meaning of the words is not determinative;

(c) it is not consistent with the principle of coherence;

(d) it produces absurd legal and practical consequences;

(e) it does not accord with Parliament's intention; and

(f) it does not align with the purpose of the VWA.

[43] Second, the applicant argues that the Decision does not take his main arguments into account. The applicant submits that he made specific arguments challenging the strict and literal interpretation of the VWA adopted by VAC throughout his review process before the National First and Second Level Appeals Units. He alleges that the Decision is wrongly silent on his arguments, because an administrative decision-maker must show in its reasons that it was alive to the essential elements of the arguments raised (*Vavilov* at para 120).

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(1) The interpretation arguments

[44] The applicant submits that the Decision-maker interpreted the French phrase *"pour toute période d'études à venir"* in subsection 5.3(2) of the VWA as imposing a *sine qua non* condition on ETB payments. In so doing, he argues, the Decision-maker rendered an unreasonable decision by stating that it did not have the authority to grant a waiver to the applicant under section 78.1 of the VWA in the context of an application for review. However, the VWA does provide for such a possibility, without specifying at what stage of the review decision it may apply to an application for "compensation" as defined in the VWA.

[45] The applicant argues that, although apparently clear and unambiguous, the plain meaning of the words *"pour toute période d'études à venir"* in the French version of subsection 5.3(2) of the VWA is not determinative (*R v Alex*, 2017 SCC 37, [2017] 1 SCR 967 at para 31 [*Alex*]). He also notes that the wording in the English version of the subsection, "for an upcoming period of study", is unambiguous. He alleges that words that appear to be clear and unambiguous may, in fact, turn out to be ambiguous or create conflicts, inconsistencies or absurd effects when placed in context, and that is precisely what happens in this case.

[46] The applicant argues that, in this regard, the Decision-maker's strict and literal interpretation of subsection 5.3(2) of the VWA creates a conflict within section 5.3 of the VWA. Courts presume that the body of legislation enacted by a legislature does not contain contradictions or inconsistencies, that each provision is capable of operating without coming into conflict with any other (*Thibodeau v Air Canada*, 2014 SCC 67 at para 93). Moreover, it is presumed that the provisions of legislation are meant to work together, both logically and

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teleologically (*English v Richmond (City)*, 2021 BCCA 442 at para 114). The applicant relies on the tense of the verbs used in the English and French versions of paragraph 5.3(1)(a) and subsections 5.3(1) and 5.3(2) of the VWA to argue that there is a plausible interpretation that recognizes an authority under the VWA to pay the ETB for studies already begun or completed.

[47] The applicant also notes that section 78.1 of the VWA is a significant indicator that Parliament did not intend that the requirement to submit an application "for an upcoming period of study" should preclude payment of the ETB. The mere existence of a provision that allows for a waiver from the requirement to file an application for compensation under the VWA is sufficient to defeat the interpretation adopted in the Decision.

[48] The applicant then argues that the interpretation of the VWA adopted by the Decision-maker in the Decision produces absurd legal and practical consequences. He asserts that, in enacting paragraph 5.2(1)(b) of the VWA, Parliament clearly expressed its intention to allow regular force veterans who served for at least six years and who were honourably released on or after April 1, 2006, to benefit from the ETB. The applicant submits that, despite this clearly expressed intention, the respondent interpreted subsection 5.3(2) to mean that, for the ETB to be paid, the application absolutely had to be submitted before studies began. The applicant argues that this restrictive interpretation produces absurd practical effects, because veterans who were honourably released prior to the coming into force of the VWA provisions in 2018 will not have access to an ETB if they followed training programs before 2018. He further contends that, if the submission of an application before the course of study begins really is a necessary condition for the payment of an ETB, then it should be recalled that the statutory scheme establishing the ETB did not exist before April 1, 2018 (including the Regulations, the policy, the procedure and the

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forms concerning the ETB). The result, he argues, is that the interpretation favoured by the respondent means that no veteran released between April 1, 2006, and April 1, 2018, can access the ETB.

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[49] The applicant also maintains that the interpretation in the Decision does not reflect Parliament's intent because it is not consistent with the legislative history of Bill C-44. To support his argument, the applicant cites testimony before the Standing Senate Committee for National Security, Defence and Veterans Affairs, which studied Bill C-44.

[50] Finally, the applicant argues that the statutory interpretation adopted in the Decision does not align with the purpose of the VWA and reduces accessibility to the ETB by eligible veterans, instead of furthering the obligations recognized in the Act. The respondent's interpretation is not justifiable in light of the fundamental purpose expressed in section 2.1 of the VWA.

(2) **The main arguments not considered by the Decision-maker**

[51] The applicant submits that the reasons for the Decision do not take into account the main arguments that he raised. The applicant states that he does not feel that he was listened to. He is concerned about whether the Decision-maker was attentive and sensitive to his arguments.

[52] The applicant maintains that the Decision-maker did not really listen to his argument about the waiver power under section 78.1 of the VWA and in VAC policies. He insists that the respondent dismissed this issue by affirming that the National Appeals Units do not have the authority to grant a waiver and that only the first-level decision-maker may do so. Yet there is nothing in the VWA or the Regulations that precludes the Second Level Appeals Unit from

authorizing a waiver to remedy the one impediment that the applicant asserts are preventing payment of the ETB. The applicant relies on section 83 of the VWA and subsection 69(4) of the Regulations to claim that there is a broad power to review and vary any decision made in his case.

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[53] Lastly, the applicant argues that the Decision-maker could very well have arrived at a different result if it had taken the text, context and purpose of the VWA into account.

B. ***The Respondent's Arguments***

[54] The respondent argues that the Decision falls solidly within the parameters established by the legal and factual constraints acting upon the Decision-maker. He argues that the applicant has not shown that the Decision was based on an irrational analysis or that the analysis conducted is without foundation. He submits that no flaw in the internal logic of the Decision can be identified.

(1) **The interpretation arguments**

[55] The respondent submits that the ETB provided for in the VWA came into force on April 1, 2018. The ETB allows a veteran with a minimum of six or twelve years of service to receive a benefit of up to $40,000 or $80,000. The benefit may be indexed, and it is intended to cover the costs of courses, training, or other costs incurred though a course of study, in addition to living expenses.

[56] The respondent asserts that the ETB application process can be broken down into two steps under the VWA: first, the veteran must be declared eligible under section 5.2 of the VWA, and second, the veteran must submit an application for an ETB for an upcoming period of study under section 5.3 of the VWA.

[57] The respondent contends that paragraph 5.2(1)(b) does not have retroactive effect and does not apply to periods prior to its coming into force on April 1, 2018, as the applicant claims. He submits that the wording in paragraph 5.2(1)(b) of the VWA simply means that only veterans released from the CAF after April 1, 2006, are eligible and may apply for a benefit for an upcoming period under section 5.3 of the VWA. Thus, the VWA reflects Parliament's choice to make the ETB available to veterans released on or after April 1, 2006, and it does indeed exclude those released prior to that date. The date of April 1, 2006, is relevant only for the purposes of program eligibility. However, eligibility for the program does not automatically result in entitlement to an ETB. Given the presumption against the retroactivity of statutes, the Decision takes the legislative constraints into account and is reasonable. According to the respondent, finding in favour of the applicant in such circumstances would be tantamount to disregarding Parliament's clear and apparent intention to choose April 1, 2018, as the date of the coming into force of the ETB program.

[58] The respondent notes that the applicant's eligibility for the program is not at issue, since he was found to be eligible for the benefit on December 30, 2022. At issue is solely whether the refusal to grant an ETB is reasonable in the circumstances.

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[59] The respondent argues that subsection 5.3(2) of the VWA obliges a veteran to submit an application for the benefit along with the required information for "an upcoming period of study". Relying on the modern approach to statutory interpretation reaffirmed by the Supreme Court of Canada in the leading case of *Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27, the respondent submits that interpreting the VWA requires consideration of the words of the statute "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament".

[60] The respondent points out that there are numerous indications in the language of subsection 5.3(2) of the VWA demonstrating the prospective nature of the ETB. The most important is the use of the phrase "an upcoming period of study" in English and *"toute période d'études à venir"* in French. According to the respondent, these words permit only one interpretation: Parliament intended to establish a program that would allow veterans to receive a benefit for upcoming periods of study, not for periods of study already completed.

[61] The respondent also notes that, for the purposes of subsection 5.3(2) of the VWA, paragraph 5.02(a) of the Regulations requires the veteran to have an "education and training plan/*plan d'études et de formation"* that includes "the anticipated duration of the course of study/*la durée prévue du programme*". Similarly, the concept of "anticipate/*prévoir*" in the term "anticipated duration/*durée prévue*" in the same paragraph necessarily places the veteran at a time before the training period. The verb "anticipate" means "imagine in advance as probable", "envisage", "organize in advance" or "decide for the future". Thus, the anticipated duration may be contrasted with the actual duration.

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[62] The respondent submits that the Regulations also require the veteran to provide evaluation results from the current period for applications for subsequent payments. This requirement is another indication of the prospective nature of the ETB program, since the ability to assess the veteran's results during each period of study is necessary for the Minister to exercise the authority to suspend or cancel the benefit under section 5.92 of the VWA.

[63] The respondent submits that the applicant's interpretation positing that the Minister has the discretion to order payment of an ETB for an earlier period is tantamount to denying:

- the presumption against the retroactivity of legislation, absent clear exception to that effect, which does not exist in this case;
- the term "for any future period of study" in section 5.3 of the VWA;
- the Minister's authority to suspend or cancel the benefit, under section 5.92 of the VWA;
- the Minister's authority to verify that the veteran is progressing towards the objectives of the education plan, in accordance with section 5.1 of the VWA and subsection 5.11(1) of the Regulations; and
- the veteran's obligation to submit a training plan, in accordance with paragraph 5.02(a) of the Regulations, so that the Minister may make a determination on the request for payment.

[64] According to the respondent, all of these statutory and regulatory requirements show that section 5.3 of the VWA, interpreted according to the ordinary sense of the words and in its entire context, must be understood as creating a program to provide a benefit for upcoming periods of

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study. To interpret the ETB program as applying retroactively would be to ignore the language of the VWA and disregard the regulatory framework entirely.

(2) **The discretion to grant a waiver**

[65] The respondent submits that the Minister's authority to waive eligibility under section 78.1 of the VWA is, first, discretionary and, second, related to the application for eligibility to the program within the meaning of section 5.2 of the VWA, not to the payment of an ETB after the requirements of subsection 5.3(2) of the VWA are met. According to the respondent, the applicant's interpretation assigns an overbroad and erroneous scope to the power to grant a waiver that does not apply in the circumstances.

(3) **The legislative history is inconclusive and was improperly filed**

[66] The respondent submits that certain excerpts from the parliamentary debates of the Standing Senate Committee on National Security, Defence and Veterans Affairs, on which the applicant relies to support his contention that the Decision-maker [TRANSLATION] "reverse-engineered a desired outcome" and failed to consider the context of the words "for an upcoming period of study", are inconclusive and were improperly filed.

[67] The excerpts cited by the applicant were not included in the application submitted to the Decision-maker for consideration and determination; therefore, they can have no bearing on the reasonableness of the decision. Furthermore, the excerpts were not filed in evidence in accordance with Rule 306 of the *Federal Courts Rules*, depriving the respondent of the opportunity to respond to this argument.

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[68] In any event, as the Supreme Court of Canada stated in paragraph 89 of *Reference re Impact Assessment Act*, 2023 SCC 23, parliamentary debates must be approached with great care in the context of statutory interpretation. It must be accepted that "the record will often be full of contradictory statements, that speakers may make inadvertent errors in presenting and discussing legislation and that it is bad practice to cherry-pick seemingly helpful passages from the record".

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XI. **Analysis**

[69] The issue of the reasonableness of the Decision has two components: (a) Is the Decision-maker's interpretation of the VWA provisions reasonable? and (b) Was the Decision-maker attentive and sensitive to the issue put to it by the applicant?

A. ***The Decision-maker's Interpretation of the VWA Provisions is Reasonable***

[70] In *Le-Vel Brands, LLC v Canada (Attorney General)*, 2023 FCA 66, Justice Stratas aptly summarized a large body of case law discussing the role of a reviewing court hearing a judicial review application where the issue involves the interpretation of a statute or regulation. He stated the following:

> [16] Key to the assessment of usefulness is a consideration of what the actual, real issues in the proceeding are. Proposed interveners must examine this with particularity. For example, while this appeal might loosely be said to be about the interpretation of the Regulations, the Court, engaged in reasonableness review, is not going to interpret the Regulations itself and impose it on the administrative decision-maker. That would be correctness review. Instead, among other things, delving into the particularity of this case, the Court will have to examine whether the Minister was sufficiently alive to the text, context and purpose of the legislation and reached an interpretation that was acceptable and defensible. See *Vavilov* at paras. 115–124.

> [17] An intervener that intends to urge this Court to adopt a particular interpretation of legislation and impose it on the administrative decision-maker is barking up the wrong tree. Except in rare instances where mandamus is warranted, this Court, as a reviewing court engaged in reasonableness review, will not develop its own interpretation of the Regulations and use it as a yardstick to see whether the administrative decision-maker's interpretation measures up, nor will it impose its interpretation over that of the administrative decision-maker: *Vavilov* at para. 83, citing *Delios v. Canada (Attorney General)*, 2015 FCA 117, 472 N.R. 171 at para. 28; see also *Hillier v. Canada (Attorney General)*, 2019 FCA 44, 431 D.L.R. (4th) 556 at paras. 31–33. After all, it is for the administrative decision-maker to decide the merits, including issues of legislative interpretation; the reviewing court reviews the administrative decision, nothing more: *Bernard v. Canada (Revenue Agency)*, 2015 FCA 263; 9 Admin LR (6th) 296; '*Namgis First Nation v. Canada (Fisheries and Oceans)*, 2019 FCA 149 and cases cited therein. At most, under reasonableness review, this Court can coach the administrative decision-maker on the methodology of legislative interpretation and how to go about its task. But it cannot tell the administrative decision-maker how the interpretive methodology should play out in a particular case.
>
> [Emphasis added.]

[71] The substance of these statements was echoed by the Supreme Court of Canada at paragraph 179 of *Pepa*, in the opinion of Justices Côté and O'Bonsawin, dissenting on points other than the following:

> [179] … A court reviewing the reasonableness of an administrative decision involving a question of statutory interpretation "does not undertake a *de novo* analysis of the question or 'ask itself what the correct decision would have been'" (*Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21, at para. 68, quoting *Vavilov*, at para. 116; see also *Canada Post Corp. v. Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 S.C.R. 900, at para. 40; *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, [2013] 3 S.C.R. 895, at para. 40). Reviewing courts ought not to make their own yardstick "and then use that yardstick to measure what the [administrative decision maker] did" (*Canada Post Corp.*, at para. 40, quoting *Delios v. Canada (Attorney General)*, 2015 FCA 117, 100 Admin. L.R. (5th)

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> 301, at para. 28). Rather, reviewing courts must examine the decision as a whole, including the decision maker's reasons and the outcome that was reached, bearing in mind that administrative decision makers "hol[d] the interpretative upper hand" (*McLean*, at para. 40; *Canada Post Corp.*, at para. 40; *Vavilov*, at para. 116).
>
> [Emphasis added.]

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[72] In all cases, however, the actual language of the statute must be taken into account. As stated by the Supreme Court of Canada in *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Directeur de la protection de la jeunesse du CISSS A*, 2024 SCC 43 at paragraph 24:

> … just as the text must be considered in light of the context and object, the object of a statute and that of a provision must be considered with close attention always being paid to the text of the statute, which remains the anchor of the interpretive exercise. The text specifies, among other things, the means chosen by the legislature to achieve its purposes. These means "may disclose qualifications to primary purposes, and this is why the text remains the focus of interpretation" (M. Mancini, "The Purpose Error in the Modern Approach to Statutory Interpretation" (2022), 59 Alta. L. Rev. 919, at p. 927; see also pp. 930–31).

[73] It is therefore appropriate to find that the parties are misguided in their arguments when they urge the Court to adopt an interpretation of the VWA or the Regulations and impose it on the Decision-maker. This applies to both the applicant and the respondent. The applicant argues that there is a "plausible" interpretation of the VWA and the Regulations that would allow for an ETB to be paid retroactively for training that began before the ETB program came into force in 2018. The respondent, for his part, invites the Court to accept his interpretation of the VWA without connecting it with the reasoning reflected in the Decision.

[74] A preliminary comment is in order here, given the issue before us and the recent trilogy of decisions on statutory interpretation from the Supreme Court of Canada. The Supreme Court issued its reasons in *Piekut v Canada (National Revenue)*, 2025 SCC 13, on April 17, 2025, in *Telus Communications Inc v Federation of Canadian Municipalities*, 2025 SCC 15, on April 25, 2025, and in *Pepa* on June 27, 2025. All three decisions were rendered after the Decision and after the hearing of the parties' arguments in this case. None of them alters the modern approach to statutory interpretation, which requires that that the words of a statute be read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament" (*Vavilov* at para 117; *Rizzo & Rizzo Shoes Ltd* at para 21; *Bell ExpressVu Limited Partnership v Rex*, 2002 SCC 42 at para 26). Neither party has sought leave to submit additional arguments because of the new case law.

[75] The Court observes that Part 1.1 of the VWA describes separate applications that take place at different stages of a benefits and payment scheme, so long as an eligible veteran makes an application and otherwise meets the requirements set out in the VWA and the Regulations. Section 5.2 concerns a veteran's potential eligibility to receive ETB payments, depending on their career path and release from the CAF, while also setting out the maximum amount of benefits available. Subsection 5.3(1) defines the programs and fees in respect of which an ETB may be paid, subsections 5.3(2) and 5.3(5) deal with the mechanism and terms of payment of an ETB in relation to the training described by the veteran, and subsection 5.3(4) refers to the Minister's discretion with respect to the amount payable, the period of study to which a payment can be allocated, and the day on which the payment is to be made. Section 5.4 refers to an application for a completion bonus in addition to an ETB. Section 5.9 refers to the last day on

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which an ETB can be paid to a veteran based on dates determined according to the veteran's career with the CAF. The Court further notes that eligibility under one stage of the benefits and payment scheme does not guarantee eligibility for a benefit under another stage of the scheme set out in the VWA and its Regulations. Finally, sections 76 to 78.2 concern the VWA's application procedure and the Minister's discretion to waive the requirement for an application for compensation.

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[76] The record before the Court contains the Decision itself in addition to the Decision-maker's worksheet outlining its reasoning and analytical approach based on the arguments and evidence submitted before it. This worksheet provides the Court with a better understanding of the Decision-maker's reasoning and approaches, and it should be considered in analyzing the reasonableness of the Decision (*Vavilov* at para 103).

[77] The Decision-maker's worksheet shows that it reviewed the correspondence in the record, the contents of the VAC file, various documents and information on the record, as well as the VWA, the Regulations, and the policies on the Education and Training Benefit, the Waiver of Requirement for Application, and the Review of Part 1, Part 1.1, Part 2 and Part 3.1 Decisions under the VWA.

[78] The Decision-maker considered the factual circumstances the applicant had submitted with regard to his inability to apply for funding before he had completed his osteopathy diploma, as well as his application for a waiver under section 78.1 of the VWA. In this regard, the Decision-maker noted the following in its worksheet:

> [TRANSLATION]
>
> The client explained that the Minister should authorize a waiver of the requirement for application. The policy regarding this authorization explains that "Waivers only apply to first level eligibility decisions, waivers do not apply to applications for reviews of decisions". Therefore, the N2LA does not have the authority to grant a waiver. Moreover, the waiver concerns eligibility for the ETB, which he was granted on 2022-12-30.
>
> [Emphasis added.]

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[79] The Decision-maker also weighed the applicant's argument that it is unfair to deny him an ETB because he did not follow the procedure in the VWA that requires him to submit an application before his training ends, even though he can receive a benefit until April 1, 2028, under subsection 5.9(1.1) of the VWA. The applicant stated his argument as follows:

> [TRANSLATION]
>
> In the circumstances, it is clear that VAC has all the information needed to make a decision regarding my eligibility for the benefit. With this detailed information, there is no doubt that the Minister would have waived my obligation to apply for the benefit at the time.
>
> It is unfair to deny my eligibility for the benefit today because I did not fulfill the formal requirement to submit an application before completing my training, when the Act expressly allows this procedure to be waived. The law is not the servant of procedure.
>
> Considering the exceptional circumstances noted above that explain why I was unable to apply prior to completing my professional training in osteopathy, I ask the Minister to retroactively grant a waiver of the application requirement, because VAC is in possession of all the information needed to make a decision regarding my eligibility for the benefit.
>
> The Minister has the authority to pay the benefit for training that has already been completed.
>
> Having been honourably released in 2012, I have until April 1, 2028, to receive the funds (subsection 5.9(1.1) of the Act).

[80] The Decision-maker's worksheet shows that it considered the applicant's argument based on subsection 5.9(1.1) of the VWA and rejected it because the provision the applicant relied on relates to the duration of the benefit rather than the approval of an application for an ETB. The Decision-maker's reasoning is crystal clear in this regard:

> [TRANSLATION]
>
> The client states in the letter that the law prevails over policy if there are errors in the policy. The client explains that, despite the policy, there is no obligation to submit an application for funding for training (formal plan). In support of his argument, the client cites subsection 5.9(1.1) of the Act. However, this provision refers to the duration of the benefit, i.e., the fact that veterans have until a certain date to receive ETB funds (in the client's case, he has until March 31, 2028) following approval of an application for funding for training.

[81] The Decision-maker then reviewed the text of subsections 5.3(1) and 5.3(2) of the VWA, although no notes in this respect were recorded in the worksheet.

[82] The Decision-maker's worksheet does not show that it specifically considered the applicant's arguments based on section 5.4 and subsection 5.9(3) of the VWA or the argument that it should interpret the VWA in light of the purpose of the legislation set out in section 2.1.

[83] The Decision itself reflects the reasoning and analysis of the Decision-maker.

[84] In the third paragraph, the Decision-maker set out what was considered for the purposes of the Decision.

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[85] In the fourth paragraph of the Decision, the Decision-maker outlined the context and purpose of Part 1.1 of the VWA, while noting that the ETB was not introduced until 2018. In particular, the Decision-maker noted that:

> [translation]
>
> . . . the ETB is a benefit introduced in 2018 to help veterans successfully transition from military to civilian life, achieve their education and post-military goals, and better position themselves to be more competitive in the civilian workforce. Funding for formal education and training programs is provided to eligible veterans to pursue further training and education at the post-secondary level.

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[86] The fifth and sixth paragraphs of the Decision provide a broad outline of the scheme and process set out in the VWA and the Regulations for a veteran to receive an ETB. The process described by the Decision-maker involves two steps.

[87] In the first step, the veteran must file an eligibility application for the program. The Decision does not explicitly specify which provisions govern such an application. The Decision-maker stated, however, that an application must be made in writing, in accordance with the Regulations, subject to a possible waiver. The Decision adds that the VAC may grant a waiver from the requirement for an application if the Department is of the opinion, based upon information that has been collected or obtained by VAC as part of its ongoing administration of programs and services and daily operations, that the person may be eligible for the benefit (compensation, services or assistance).

[88] As reflected in the Decision-maker's worksheet and the remarks in paragraph 8 of the Decision, the applicant's eligibility is not at issue, because his eligibility within the meaning of section 5.2 of the VWA was confirmed on December 30, 2022.

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[89] The second step follows confirmation of the veteran's eligibility for the ETB program and involves the process and requirements set out in subsections 5.3(1) and (2) of the VWA that an eligible veteran must complete to receive an ETB.

[90] The Decision-maker explained that the program of study for which the ETB is requested must meet certain criteria, including that it led to the completion of a degree, diploma, certification or designation. This step in the process is not at issue, because the decision of the National First Level Appeals Unit had already accepted that the applicant's program of study met this requirement. Moreover, the applicant does not seek judicial review of this issue.

[91] The Decision-maker then set out its interpretation of subsections 5.3(1) and (2) of the VWA, beginning with a reproduction of the exact wording of subsection 5.3(2) of the VWA, with certain key words of the provision in bold. The Decision-maker wrote the following:

> [translation]
>
> Subsection 5.3(2) requires a veteran requesting payment of a benefit for the purposes described in paragraph (1)(a) to provide the Minister with proof of acceptance, enrolment or registration at the institution **for an upcoming period of study** and with any prescribed information.

[92] The Decision-maker concluded the interpretation by explaining:

> [translation]

> Accordingly, the veteran must develop and submit an education and training plan to VAC, along with all the information needed to lead to a decision, **before the educational program begins**.
>
> [Emphasis added.]

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[93] The Decision-maker's interpretation of the words chosen by Parliament in subsection 5.3(2) of the VWA—in particular, the use of the time qualifier *"à venir"* ("upcoming") rather than the phrase *"pour toute période d'études"* ("for any period of study") without an otherwise limiting time qualifier—reflects its understanding of Parliament's intention and the means chosen to achieve its ETB objectives, through its consideration of all of the words used in the provision in the context of Part 1.1 of the VWA. The Decision-maker's interpretation of the words used by Parliament is grounded in the text, context, and purpose of the VWA, in light of its specific understanding of the legislative scheme at issue. The Decision-maker's interpretation of subsection 5.3(2) of the VWA is coherent, justified and reasonable.

[94] The Decision-maker went on to explain the consequence of the legislative choices contained in subsection 5.3(2) of the VWA while attacking the applicant's central argument that nothing in the VWA prohibits payment of an ETB retroactively. The Decision-maker stated:

> [translation]
>
> Retroactive payments for education or training that has already been begun or completed cannot be made. It should also be noted that the intent is not to provide the full amount of the entitlement if the cost and duration of the program of study do not require it. Veterans honourably released between April 1, 2006, and March 31, 2018, have until April 1, 2028, to receive funding.

[95] The Decision-maker's interpretation that an ETB cannot be paid under subsection 5.3(2) of the VWA for programs of study that have already begun or been completed—and therefore, by definition, that are not "upcoming"—is a logical and coherent conclusion flowing from the use of the limiting time qualifier in the wording of subsection 5.3(2) of the VWA. The Decision-maker's interpretation of subsection 5.3(2) of the VWA in this regard is coherent, justified and reasonable.

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[96] The applicant raises six interpretation arguments in an attempt to establish that the Decision is unreasonable. He submits that the interpretation adopted by the Decision-maker is unreasonable because: (a) the Decision-maker did not attempt to discern the meaning of subsection 5.3(2) of the VWA; (b) the plain meaning of the words is not determinative; (c) the interpretation is not consistent with the principle of coherence; (d) the interpretation adopted by the Decision-maker produces absurd legal and practical consequences; (e) the interpretation given by the Decision-maker does not accord with Parliament's intention; and (f) the interpretation adopted by the Decision-maker does not align with the purpose of the VWA. All of these arguments urge the adoption of a specific interpretation of the VWA provisions that leads to the outcome desired by the applicant, instead of demonstrating that the Decision-maker's interpretation of the provisions of the VWA is unreasonable.

[97] The applicant does not submit what the Decision-maker should have done to discern the meaning of subsection 5.3(2) of the VWA. The Decision-maker focused on the words used in the provision and on their meaning, as understood in their grammatical and ordinary sense. It weighed the significance of the term *"à venir"* ("upcoming") in subsection 5.3(2) of the VWA,

and it considered Parliament's intention in order to determine whether Parliament meant to allow payment of an ETB for a period of study that is not "upcoming". The applicant's argument must be rejected, because the Decision presents an exercise in discerning the meaning of the words used by Parliament in their context. The applicant's argument reflects that he disagrees with the outcome of the Decision-maker's interpretation, not that the interpretation is unreasonable.

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[98] The arguments that the plain meaning of the words is not determinative, that the interpretation adopted is not consistent with the principle of coherence, and that it produces absurd legal and practical consequences must meet the same fate.

[99] The applicant's argument is based on the words of the Supreme Court of Canada in *Alex*. It is true that the Court wrote in *Alex* that plain meaning alone is not determinative and that a statutory interpretation analysis is incomplete without considering the context, purpose and relevant legal norms. However, the applicant fails to mention that, in paragraph 33 of *Alex*, the Court also held that an otherwise arguable reading cannot prevail if it is at odds with the purpose and context of the provisions.

[100] Through his arguments, the applicant puts forward an interpretation that distorts the words in the VWA setting out the conditions for eligibility and receipt of a statutory benefit, such that the choices and means selected by Parliament are disregarded. The interpretation he proposes assigns no weight to the time qualifier used in subsection 5.3(2) of the VWA and confuses the nature and purpose of distinct applications and payments contemplated in sections 5.2, 5.3, 5.4, 5.9, 78.1 and 78.2 of the VWA. The consequences of the Decision-maker's

interpretation are neither illogical nor absurd: they reflect the consequences of applying the VWA to a fact situation in which the applicant acknowledges that he acted late and seeks a waiver that is not provided for in the legislation. Accordingly, the applicant's three arguments must be rejected as they fail to establish that Decision-maker's interpretation is unreasonable.

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[101] The final interpretation argument advanced by the applicant relates to legislative intent. It is based on testimony obtained by the Standing Senate Committee on National Security, Defence and Veterans Affairs, which studied Bill C-44. This argument must also be dismissed. The Court agrees with the respondent's objections in this respect. The excerpts from the testimony before the Standing Senate Committee on National Security, Defence and Veterans Affairs were not filed in evidence in accordance with Rule 306 of the *Federal Courts Rules* and cannot be considered. Furthermore, the argument presented was never raised before the Decision-maker. This new argument cannot be considered for the first time on judicial review without undermining the integrity of the process (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 875 at para 59).

[102] The applicant's interpretation arguments do not establish that the Decision is unreasonable.

B. ***The Decision-maker Was Attentive and Sensitive to the Issue Submitted by the Applicant***

[103] The applicant's final argument must also fail.

[104] The applicant insists that the Decision-maker did not address his argument regarding the power to grant a waiver under section 78.1 of the VWA. The Decision-maker's worksheet shows that the Decision-maker considered this issue and found that [TRANSLATION] "the waiver concerns eligibility for the ETB, which he was granted on 2022-12-30". I acknowledge that the Decision-maker states in the Decision that a waiver applies only to first-level decisions and that this conclusion is not justified by the wording of section 78.1 of the VWA. However, the Decision-maker's error is of no consequence, since the applicant's eligibility for the program under section 5.2 of the VWA had already been confirmed and was not in dispute. The Decision-maker considered the applicant's argument in analyzing the issue before it.

[105] The applicant also refers to his argument that section 5.9 of the VWA provides that he can receive ETB payments until April 1, 2028. The Decision-maker's worksheet indicates that it had indeed considered the Applicant's argument when it noted the following:

> [translation]
>
> In support of his argument, the client cites subsection 5.9(1.1) of the Act. However, this provision refers to the duration of the benefit, i.e., the fact that veterans have until a certain date to receive ETB funds (in the case of the client, he has until March 31, 2028) following approval of an application for funding for training.

[106] Therefore, the Decision-maker considered the applicant's argument in analyzing the issue before it.

[107] The Decision-maker did not comment in the worksheet or in the Decision on the applicant's submission that section 5.4 of the VWA provides the Minister with the authority to pay an education or training bonus to a veteran who has already obtained a diploma. The

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applicant referred to this provision only once in his application for judicial review, in support of his argument based on subsection 5.9(1.1) of the VWA. Section 5.4 of the VWA refers to, “over and above an education and training benefit, an education and training completion bonus in the prescribed amount”, not to an application for ETB payments under section 5.3 of the VWA. The applicant’s argument does not concern the matter at issue and should therefore be rejected. The Decision-maker’s failure to address it is a minor misstep that cannot invalidate the Decision (*Vavilov* at para 100).

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XII. **Conclusions**

[108] The Decision is justified and based on an internally coherent reasoning. It is reasonable. The applicant has not established that the Decision is vitiated by a lack of justification or by an error that is sufficiently central or significant to render it unreasonable. The applicant’s application for judicial review must therefore be dismissed.

[109] The respondent does not seek costs in these proceedings. Since he does not claim them, neither party will be entitled to costs.

JUDGMENT in T-1196-24

THIS COURT'S JUDGMENT is as follows:

1. The applicant's application for judicial review is dismissed.

2. Neither party is entitled to its costs in the proceeding.

"Benoit M. Duchesne"
Judge

Certified true translation
Vera Roy, Senior Jurilinguist

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1196-24
STYLE OF CAUSE:	STEVE LANGLOIS v HIS MAJESTY THE KING
PLACE OF HEARING:	QUÉBEC, QUEBEC
DATE OF HEARING:	APRIL 17, 2025
REASONS FOR JUDGMENT AND JUDGMENT BY:	DUCHESNE J
DATED:	OCTOBER 15, 2025

APPEARANCES:

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Vincent Riendeau	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Montreal, Quebec	FOR THE RESPONDENT

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