

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

VIETNAM VETERANS OF AMERICA	:	
8605 Cameron Street, Suite 400	:	
Silver Spring, MD 20910	:	
	:	
and	:	
	:	
VETERANS OF MODERN WARFARE	:	
#33107 PO Box 96503	:	
Washington, D.C. 20090	:	
	:	
Plaintiffs,	:	Civil Action No.:
v.	:	
JAMES B. PEAKE, M.D., in his official	:	
capacity as SECRETARY OF THE	:	
DEPARTMENT OF VETERANS AFFAIRS	:	
810 Vermont Avenue, N.W.	:	
Washington, D.C. 20420	:	
	:	
Defendant.	:	

**DECLARATION OF CHARLES FIGLEY  
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

1. The facts in this declaration are based on my personal knowledge, as well as my professional opinion based on my experience and use of relevant resources traditionally relied upon by myself and other professionals in my field of expertise.

2. I am a research psychologist with a specialty in trauma psychology including combat-related stress injury theory, research, prevention, management and treatment. My credentials and experience are discussed in detail below.

3. I am a Fellow of the American Psychological Association Division 56 (Trauma Psychology) and several other Divisions. I am a Fellow of the American Psychological Society and four additional national professional associations.

4. Currently I hold the Paul Henry Kurzweg, MD Distinguished Chair in Disaster Mental Health at Tulane University and I am the Director of the Traumatology Institute.

5. I held a similar position at the Florida State University until July 1, 2008. That Institute, under my direction, was involved in a number of activities focusing on combat stress injury theory, research, prevention, management and treatment including sponsoring three national conferences on the topic.

6. I have written several critically acclaimed research treatises and books on the subject of combat stress injuries. My latest book, *Combat Stress Injury: Theory, Research, and Management*,<sup>1</sup> published last year, compiles the latest works by recognized experts in the fields of assessments, theories, prevention and treatment of combat stress injuries.

7. My first book, *Stress Disorders among Vietnam Veterans: Theory, Research, and Treatment*<sup>2</sup> is recognized as the first textbook on combat stress injuries, and led to the recognition in 1980 of the diagnosis of Post-traumatic Stress Disorder (PTSD).<sup>3</sup>

8. Throughout this thirty-year span, I have participated in dozens of research projects focusing on traumatic stress injuries, resulting in more than 80 publications and 250 presentations.

9. I have served as a professional expert witness on behalf of the Veterans Administration on the subject of combat stress injury. Until now, I have never participated in any case in which I have opposed the VA.

10. In the last three years I have worked as a consultant to the US Army and provided expert training on a number of topics designed to increase the Army's effectiveness in helping

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<sup>1</sup> Figley, C. R. & Nash, W. P. Nash (Eds.) (2007). *Combat Stress Injury: Theory, Research, and Management*. NY: Routledge.

<sup>2</sup> Figley, C. R. (Ed.). *Stress Disorders among Vietnam Veterans: Theory, Research, and Treatment*. NY: Brunner/Routledge.

<sup>3</sup> DSM III (full reference)

soldiers concerning combat stress injury. I have also worked in a similar but more informal capacity with the US Marine Corps and US Navy on this subject, and have provided training and education in the area of primary or secondary stress injuries.

11. Our military services, and our nation, have come a long way in recognizing and treating PTSD. We have made progress in recognizing the overlapping symptoms of mild Traumatic Brain Injuries (mTBI), Combat Stress Injuries (CSI), and PTSD.

12. PTSD and mTBI are the signature injuries suffered by our troops in the ongoing wars in Iraq and Afghanistan. Because of the continued inability or reluctance of the military and the VA to diagnose these injuries promptly and accurately, we have no reliable figures detailing how many of our veterans are suffering from these injuries. But based on my experience, it is conservatively in the tens of thousands, and very likely an order of magnitude higher.

13. The most critical time period for diagnosing these injuries is when these veterans first return from combat. There is no question that the VA is failing terribly in that task, in no small part because it is failing to adhere to the minimal requirements of its own Manual for Diagnosing Post-Traumatic Stress Disorder, which requires an evaluation process of approximately one and one-half to two hours. Most assessments of returning veterans are completed in less than twenty minutes.

14. The lack of proper diagnosis of this disease, and corresponding denial of benefits and appeals from improper denials in the timely manner in which these soldiers are entitled, is causing serious and irreparable harm to our veterans, their families, and our communities.

15. The VA's failure to properly and promptly diagnose these injuries and provide critically needed benefits has been known for some time – probably more than 30 years – but

the problems have become especially acute in the last three years due to the growing strain on military personnel deployed to the Middle East.

16. Failure to treat PTSD promptly, either directly through the VA's medical benefit process or through the private sector with the aid of veteran disability benefits, has grave consequences. The prompt treatment of PTSD is essential to maximize the effectiveness of the treatment, and to avoid the serious adverse consequences that result if this injury is not addressed.

17. If PTSD is not treated promptly, a veteran's fear and traumatic psychological reaction that was originally associated with a specific combat setting will spread ("generalize") to other settings and stimuli that cue that same kind of fear response and reaction. As this fear and stress response increasingly spreads to other settings over time, a veteran may gradually withdraw from the otherwise fairly normal life activities that are now triggering this response.

18. Fear and avoidance are conditioned responses. The avoidance of feared cues precludes natural exposure to stimuli that produce the anxiety reaction. The chances that a veteran has to overcome these fears or extinguish the response to them can diminish greatly as time goes on. The longer the cycle continues, the more the veteran's sensitivity to various kinds of stimuli that trigger the stress reaction will increase, and the longer it will take to overcome or undo those conditioned responses.

19. Spontaneous recovery from chronic PTSD is the exception. And, even if eventually treated, the longer the delay, the more difficult the recovery process. Recovery may not occur at all after 6 years of chronic illness. In fact, no controlled study has documented either full recovery or even sustained remission of chronic PTSD. In short, the risk of irreparable

harm to veterans denied medical care, whether through the VA directly or alternatively in the private sector with the aid of disability benefits, is real, substantial, and growing on a daily basis.

20. A recent review of the treatments of PTSD by the National Academy of Sciences Committee on Treatment of PTSD found that there is not sufficient evidence suggesting that drugs or the combination of drugs and therapy are effective treatments for PTSD. Unfortunately, despite this lack of evidence that drugs are an effective treatment for PTSD, most of the VA's internal efforts to manage PTSD injuries involve drugs.

21. The vast majority of traumatized veterans are not getting the care they need within the VA system. For many veterans, the only real hope for effective treatment of PTSD is through the private medical community. Unfortunately, very few traumatized veterans can afford mental health services unless they receive some monetary assistance from the VA through the form of disability benefits. The VA's failure to diagnose PTSD promptly and accurately, and the corresponding delay in the award of benefits, plainly results in veterans being denied this critical lifeline. As recently as October 13, 2008, USA Today quoted Admiral Michael Mullen, Chairman of the Joint Chiefs of Staff, as stating that PTSD "is something we have to focus on, and that "I think it's a bigger problem than we know." The article also noted the potential complication due to the low number of available mental health professionals in the military qualified to treat PTSD.

22. Moreover, the delays, bureaucratic inefficiencies, and often adversarial approach taken by the VA to veterans seeking disability benefits can exacerbate the underlying problems caused by PTSD. Veterans suffering from PTSD are especially ill-equipped to deal with the frustrations that inevitably arise because of the VA's inordinate delays in determining a veteran's initial request for disability benefits, let alone the delays in resolving appeals of incorrect

decisions, which are even longer. In essence, the very system designed to provide assistance to our nation's veterans often makes matters worse because of the unconscionable delays in affording needed assistance.

23. The consequences of the VA's failure to provide prompt treatment and benefits are sobering. The delays inherent in the bureaucratic maze that our veterans face when seeking benefits increase the level of frustration, and, especially when combined with the failure to treat PTSD, mTBI or CSI – can often lead to depression. In turn, that depression makes it more difficult for the veteran to find employment, regain economic viability, and provide for his family, leading to broken homes, homelessness, and oftentimes substance abuse.

24. More specifically, depression can cause veterans to despair of any hope of recovery. They can become despondent and withdraw from the family and friends needed to provide emotional support and stability. Suicide is all too often the tragic result of this downward spiral. Approximately 18 veterans a day take their own lives. There are compelling studies demonstrating that the suicide rate among the young veterans returning from the service of their country in Iraq and Afghanistan is at least double that of the general population.

25. No one – not even the VA itself – seriously contends that the VA could fix all of the failings of its systems in any meaningfully prompt time period, even if ordered to do so. As a result, unless other methods to provide needed assistance to veterans are devised, those veterans will continue to suffer irreparable harm on a daily and increasingly widespread basis.

26. Immediate action is required to prevent further irreparable harm to our nation's veterans. Some form of temporary relief, such as interim disability benefit payments if the VA fails to process initial claims or subsequent appeals promptly, would allow veterans to be able to

afford to seek private medical assistance, and thereby diminish the likelihood of depression and suicide.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 6th day of November, 2008.

A handwritten signature in cursive script, appearing to read "C. Figley".

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Charles Figley