

**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 SEAN EVERS IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

1. The statements in this declaration are based upon my personal knowledge, experience and professional opinion.
2. I hold a Doctoral Degree in Clinical Psychology (1981) from Florida Institute of Technology, School of Professional Psychology, a Masters of Arts Degree in Psychology (1977) from the New School for Social Research and a Masters of Science Degree in Clinical Psychopharmacology (2003) from Fairleigh Dickinson University.
3. I am a licensed psychologist in the State of New Jersey. Since receiving my license in 1983 I have been employed as a clinical psychologist in private practice.
4. In 1983 I began treating veterans as a subcontractor for the Vietnam Veterans Leadership Program. Since that time I have worked providing direct clinical psychological services to veterans and their families for a variety of agencies and privately. Some of the

agencies that have sponsored treatment have been Veterans Administration , the Vets Center Program, and the State of New Jersey. The majority of my clinical work with veterans and their families since 1988 has been sponsored by the New Jersey Division of Military and Veteran's Affairs.

5. In addition to my clinical work I have been a subject matter expert presenting at numerous meetings and conventions (local and national) for both clinical and lay audiences on Posttraumatic Stress Disorder and the psychological issues of veterans. I have also served as an expert witness in veteran cases before the Board of Veteran's Appeals both locally and nationally.

6. My clinical practice has includes veterans from World War II, the Korean War, the Vietnam War, Lebanon, Panama, Granada, the First Gulf War, Operation Iraqi Freedom, Operation Enduring Freedom, the war in Afghanistan and other Global War on Terror deployments.

7. My clinical practice over 25 years has included the evaluation and treatment of several thousand veterans and their families. In this capacity I have worked with veterans in all stages of the Veterans Administration claims process.

8. Typically a veteran is referred to me prior to their filing a claim with the Veterans Administration. In this capacity I have been able to follow the veteran throughout the claim process from their initial filing to a final adjudication.

9. It has been my experience that PTSD symptoms and issues evolve and manifest over time; although early diagnosis can be a benefit in treating the veteran it has been the exception rather than the rule.

10. Most veterans I have evaluated have been discharged from active duty without a diagnosis of PTSD, and a significant number have been evaluated and turned down by the VA's initial examination, which is frequently less than 20 minutes.

11. It is typical that my initial evaluation of a veteran for PTSD takes 2 to 3 hours spread over several visits.

12. The VA claim process, frequently impeded by their initial lack of proper diagnosis and long delays in processing, causes additional psychological harm to our veterans already experiencing psychological symptoms that impair their major life relationships and impair their ability to function successfully in society.

13. The VA's failure to properly and promptly evaluate and accurately diagnose a veteran with PTSD causes delays in treatment. The symptoms of PTSD and their negative consequences to a veteran's life become more resistant to change over time. The situation that precipitated the initial trauma, which frequently involved an "enemy" interaction in combat, changes focus during the extended claim process and the VA becomes the "enemy." Issues with the VA can then become the focus of treatment sessions rather than addressing the causative trauma.

14. When the long claim process is finally decided, more often than not in the veteran's favor, this need for an "enemy" has been crystallized and generalizes. Frequently the "enemy" mentality that originated during combat and extended for years during the claim process becomes misdirected at a spouse, employment situations and society in general when the claim is finally settled. Upon receiving their final award letter, they appreciate the recognition and the initial relief of having prevailed over their enemy but then begin to feel a loss, the loss of the "enemy" they have battled so long and has become a part of their life. Recently a veteran in my practice upon attaining 100% rating brought the letter to my office questioning, "What do I do now?" In the time since his award he has had increased difficulties with his wife, problems with his neighbors and has become more fragile in group therapy, questioning the motives of other veterans, and has become more verbally aggressive looking for the next "enemy."

15. The failure to evaluate and adjudicate claims promptly by the VA has, in my clinical population, resulted in financial problems for Veterans. While Veterans await resolution of their claims, they receive no disability benefits whatsoever. In many cases, receipt of benefits is vital to their financial survival, and the VA's delays can result, in some cases, in the loss of homes to foreclosure and the need to file bankruptcy. An example of this can be seen in a

veteran under my care who lost his home. He returned from service with a physical disability but was not granted a disability rating. He was also suffering from undiagnosed PTSD. He lost his job at the post office due to his physical limitations. As a result of his symptoms, he had difficulty finding work. During this period of unemployment he lost his home. After constant urging by fellow veterans he reapplied to the VA for a disability rating. His claim took approximately 5 years and several appeals to resolve. When finally resolved he was rated 100%. Although he received a retro payment due to the time it took to settle his claim it was too late to save his home or purchase one in the town where he had grown up.

16. The failure to evaluate and adjudicate claims promptly by the VA has, in my clinical population, resulted in veteran's experiencing significant marital and family difficulties including domestic violence and divorce. A veteran with PTSD who served as a medic in Vietnam is a good example of this issue. When he began treatment with me he was married and employed but he suffered from significant PTSD symptoms of agitation, anger and rage. He also self medicated with alcohol to moderate his anxiety symptoms. He applied to the VA for recognition of his PTSD condition once he realized he was having psychological difficulties. His claim and several appeals took approximately 4-5 years to settle. During this period his anger was frequently out of control and he began to become more reclusive. His anger, frustration and obsession with his claim became an issue with his wife. This caused the quality of his marriage to decay and outbursts of anger and domestic violence to increase. His 20 plus year marriage ended in divorce.

17. The failure to evaluate and adjudicate claims promptly by the VA has, in my clinical population, resulted in veterans experiencing significant vocational difficulties either unemployment or underemployment. A veteran formerly under my care is an example of how unrecognized psychological symptoms lead to chronic unemployment and underemployment. During his initial evaluation he detailed over 22 jobs he had held in the 20 years since his discharge from the military. He served as a medevac crewman during his active duty tour. He received 23 air medals for his service. Upon examination his troubled job history was based

upon his PTSD symptoms. He did not relate well to others or respond well to close supervision. His military experience caused him to develop intense emotional numbing and his ability to interact with peers or show any emotion was very limited. His low frustration tolerance and easy agitation caused him to have repeated incidents at work which resulted in his either leaving a job abruptly or being fired. Some jobs did not last one day. His skills as a heavy equipment mechanic were in demand, and he typically had little trouble finding new work, yet he was always "the new guy" with no seniority and lowest salary. He attempted to seek treatment and recognition by the VA but was turned down for a claim and disheartened by the quality of care he received. He sought treatment in the private sector. It took over 6 years for his claim to settle, with several appeals. By the time his claim settled he had gone through several more jobs and was eventually determined to be totally disabled by an unrelated condition.

18. The failure to evaluate and adjudicate claims promptly by the VA has, in my clinical population, resulted in suicidal ideation, suicidal gestures and successful suicides during the claims process. Many veterans unfortunately fall into this category. Suicidal ideation is frequently the consequence of the increased depression and untreated PTSD experienced by returning veterans. The increased frustration of the drawn out claims process exacerbates these episodes. An example of this can be seen in the returning OIF veteran who came home to find his marriage ending in divorce and an inability to find work. He decided to take advantage of the educational benefits he earned while in the service. His depression and PTSD symptoms made college difficult and he was not able to complete his degree. The combination of his marital loss, failure to readapt to civilian life and difficulties at school precipitated suicidal ideation. His suicidal thoughts proceeded to suicidal actions and he was hospitalized, in a non-VA facility for an overdose. Underlying his worsening psychological state was the fact that his VA claim for psychological difficulties was denied and is currently in appeal. The claim process has lasted for 3 years to date.

19. The failure to evaluate and adjudicate claims promptly by the VA has, in my clinical population, resulted in significant difficulties for veterans with depression and anxiety

upon returning from overseas duty. Depression is a common response to combat and/or an extended deployment away from one's family. This disorder involves, beyond depressed mood, increased feelings of guilt and hopelessness. The VA claim with these types of problems often acts to enhance the hopelessness and frequently results in the veteran with a valid claim giving up on the process or feeling unworthy of receiving any disability after receiving an initial rejection. An OEF/OIF veteran I evaluated is an example of this group. He returned from overseas and was discharged quite depressed and hopeless. His initial claim was denied by the VA and he allowed the appeal time to lapse before seeking treatment at the behest of his wife. He was profoundly depressed at the outset of treatment and experiencing vocational difficulties. He felt that the denial of his claim by the VA was proof that there was nothing wrong with him as a result of his military experience and that he was just hopeless. Feeling like a failure and unrecognized by the VA he languished in his depression damaging his marriage and reducing his job motivation and salary.

20. Veterans with TBI often fall into a category of dual diagnosis. They have the symptoms of their brain injury which frequently include memory deficits, inability to sequence tasks and difficulty learning new information. These symptoms are frequently complicated by depression or PTSD. An example of this type of veteran is an OEF veteran I have seen in my practice that returned from Iraq with both TBI and PTSD. He attempted to return to work and his marriage but has had difficulties in both areas. At work he cannot keep up with the work flow he had had prior to his deployment and at home his anger, rage and low frustration tolerance has resulted in several marital separations and at least one call to the Division of Youth and Family Services due to his violent acting out with his children. He has put in a claim with the VA for his head injury but was denied. Because of his TBI he has trouble filing paperwork and keeping on top of the VA claim process. These symptoms have impeded his ability to work and reduced his ability to earn a living and support his family. Recognition of his disability would allow him to receive special accommodations at work and psychologically accept his behaviors in their appropriate context.

21. The experience of my working with a large number of veterans outside of the VA system, and typically while they are in the claims process, has offered a unique insight into the damage the VA process causes the veteran already experiencing psychological difficulties. The long delays and frequent denials of eventually successfully adjudicated claims serves to prolong, intensify and in many cases solidify the veteran's psychological dysfunction.

I declare under penalty of perjury under the laws of the State of New Jersey that the foregoing is true and correct.

Executed this 8 day of November, 2008 at 2421 ATLANTIC AVE. MANASQUAN, New Jersey.

Sean Evers
SEAN EVERS