

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.: 08-1334 (RBW)  
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 RICHARD F. WEIDMAN IN FURTHER SUPPORT  
OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION  
AND IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

I, RICHARD F. WEIDMAN, declare under penalty of perjury of the laws of the United States, as follows:

1. Except where otherwise indicated, the facts of this declaration are based upon my personal knowledge.

**My Background**

2. I am the Executive Director for Policy & Government Affairs at the Vietnam Veterans of America (the "VVA"). In that capacity, I am responsible for all relations with the Executive branch of the U.S. Government, including the Department of Veterans Affairs, the Department of Defense, the Department of Labor, the Office of Personnel Management, the

Office of Management & Budget, The White House, and other Federal entities as the need arises, to advocate and educate them as to the vital needs and interests of veterans of all generations, and particularly disabled veterans. Additionally, I work with the elected leadership and other VVA staff to write testimony and to educate Members of Congress and their staff as to the issues facing veterans and their families.

3. I am a graduate of Colgate University (B.A., 1967), and thereafter pursued graduate studies at the University of Vermont. In the 1970s, I was an instructor and administrator at Johnson State College in Vermont. At that time, I became very active in community and veterans affairs.

4. I joined the staff of the VVA in 1979, and from that time, until 1987, served variously as Membership Service Director, Agency Liaison, and Director of Government Relations. Prior to rejoining the VVA in 1998, I served in the Administration of New York Governor Mario M. Cuomo as statewide director of veterans' employment & training (State Veterans Programs Administrator) for the New York State Department of Labor.

5. In addition, I have served as Consultant on Legislative Affairs to the National Coalition for Homeless Veterans (NCHV), and also served at various times on the VA Readjustment of Combat Veterans Advisory Committee, the Secretary of Labor's Advisory Committee on Veterans Employment & Training, the President's Committee on Employment of Persons with Disabilities - Subcommittee on Disabled Veterans, the Advisory Committee on Veterans' Entrepreneurship at the Small Business Administration, and held numerous other advocacy posts in veteran affairs.

## **The VVA**

6. The VVA was federally chartered by Congress in 1986. It is a non-profit membership and advocacy organization dedicated to promoting the social welfare of Vietnam-era veterans and other veterans, and their families, in the United States by encouraging their growth, development, readjustment, self-respect, self-confidence and usefulness.” Toward that end, the VVA supports veterans of all U.S. wars and conflicts. The founding principle of VVA is “Never again shall one generation of American veterans abandon another.” VVA has more than 58,000 members in 686 chapters.

### **The Broken Disability Claims Process & Injury Suffered By Our Members**

7. I have personally worked with, and am familiar with the records of, numerous veterans of the conflicts in Vietnam, Iraq and Afghanistan who are members of our organization and who are currently applying for benefits through the Veterans Administration (the “VA”) claims process.

8. These veterans have faced significant delays, often of a year or more, from the time that they first applied for disability benefits from the VA until the time their claims were processed. Appeals of those decisions average more than four years, and we have among our VVA members persons for whom the appeals process has taken more than ten years.

9. The extended period of uncertainty that our members endure as to whether, and when, benefits might be awarded, of course causes many of them to be unable to properly plan for the future. To that extent, each and every one of our members who has suffered through the agonizing VA disability claims appeal process has been directly harmed.

10. More importantly, many of these veterans are solely reliant on the award of disability benefits for their day-to-day living, *i.e.*, to provide them and their families with basic necessities like food, shelter and clothing. The extraordinary delays in the processing of their

claims have caused them to suffer direct injury in the form of difficulty securing, and/or the loss of, housing, and the overall inability to adequately care for themselves and their families. Needless to say, the psychological harm that flows from these dire circumstances is severe.. Our members have reported that the failure to award disability benefits has contributed to severe depression.

11. Both our VVA records, and my own experience working with our members and other veterans, are replete with examples of persons who have endured unreasonably long waits for disability award decisions, and have suffered significant harm as a direct result.

12. Merely by way of example, I personally worked with Veteran "A," a veteran from a western state who prefers that his name not be made public. He had a clear cut case of PTSD, and clear-cut documentary evidence of a stressor; nevertheless, his case languished for three years at his local regional office, and then he was rejected. He filed a Notice of Disagreement, and it took more than eight months for the Regional Office to certify his appeal and send it to the Board of Veterans Appeals ("BVA"). It sat there for another three and one-half years, before I interceded with top VA officials to request that they ask the BVA to simply do their job and give this veteran an answer. All told, Veteran A waited more than seven years, during which time he lost his house (as he was unable to work), and had to move his family into an abandoned trailer with no electricity in order to survive. He was ultimately awarded his claim outright.

13. Another veteran, whom I have worked with for some years, and who, because he prefers that his name not be made public, I will call Veteran "B," was grievously wounded in Vietnam and was even reported killed-in-action to his family. He came out of a coma two weeks later at a military hospital in Japan. He was hospitalized for more than two years at Walter Reed Army Medical Center upon his return to Washington, D.C. He underwent further treatment at

the VA hospital in Washington, D.C. upon his separation from military service. As he has aged, even though he continues to work hard at regular physical therapy, his skeletal structure has been breaking down to the extent that he can no longer maintain it with the musculature. Further, he finally began to seek assistance dealing with PTSD (for which he receives ongoing treatment). He applied to the VA for the additional conditions that have manifested, including difficulty walking (he often requires two canes now), and has been told that conditions, such as repairing the hole in his now-enlarging septum (the original hole was cut in connection with a medical procedure to enable a wire to run from his left cheek bone to his right cheek bone so that his face and skull could literally be wired back together), was not developed during or as a result of his service. He has been turned down at the regional office level for disability benefits for most of these secondary conditions, as it refuses to believe that he was run over by a tank and survived, even though there is ample documentary evidence that this was the case. After more than two years, Veteran B he is still waiting his appeal to be considered at BVA. He has suffered direct injury as a result of the delay in processing his claim. This has led to significant adverse effects, not the least of which is the indignity of being told that his wounds have nothing to do with his service as an infantryman in Vietnam. The delays have exacerbated an already problematic acute depression that threatens his overall health and well being.

14. A favorable decision in this lawsuit will redress the injuries caused by the lengthy delays that the above-described veterans, like so many of the VVA's members, have experienced, either by providing them with prompt benefits that will assist them in their day-to-day living, or, at a minimum, by removing the cloud of uncertainty that hinders their abilities to plan for the future and move forward with their lives.

**Conclusion**

15. For the reasons set forth above, our disabled members are being directly harmed by the VA's delay in processing their benefits applications. If the VA's unreasonable delays were eliminated, our members would be able to better afford the basic necessities that they lack, obtain the medical care that they need, and have their transitions back into civilian life significantly eased. In other words, their harm would be redressed.

Dated: December 11, 2008

  
Richard F. Weidman