

BENEFITS DELAYED are BENEFITS DENIED

THE LAWSUIT

Vietnam Veterans of America (VVA) and Veterans of Modern Warfare (VMW) have filed a lawsuit against the Department of Veterans Affairs (VA). The lawsuit, which was filed in the United States District Court for the District of Columbia, seeks to end the unconscionable delays experienced by veterans when applying for disability benefits.

The lawsuit asks the Court to order the VA to adjudicate benefits decisions promptly. Specifically, it asks the Court to order the VA to:

- Provide initial decisions on every veteran's disability benefits claim within 90 days.
- Fully resolve appeals of those initial decisions within 180 days.
- Grant equitable relief in the form of monetary payments equal to a 30% disability rating payment to any veteran disability benefits applicant who does not receive a decision within these timeframes. That payment – a mere \$356 a month for a veteran with no dependents—is not much, but it's a lifeline to those awaiting their benefits decisions.

HISTORY

November 10, 2008

VVA and VMW file a historic lawsuit against the VA in the United States District Court for the District of Columbia. The two VSOs hosted a press conference at the National Press Club to announce the lawsuit and take advantage of the Veterans Day news cycle.

December 4, 2008

The U.S. Government filed its response to the VVA and VMW lawsuit and sought outright dismissal of the case. The Government's response was aimed at evading rather than embracing its legal responsibilities and does not contest that the VA takes many, many months, and often years, to reach decisions that have critical consequences for our nation's disabled veterans. Instead, it launched a barrage of legal arguments, many already rejected by numerous courts, about why the VA should not be held accountable. Given the VA's repeated admissions that it has all the resources it needs to do its job – Congress gave the VA a larger budget than it asked for during the past few years – the VA's claims regarding the adverse consequences of a court order which forces the agency to do its job ring particularly hollow.

Most alarmingly, the Government argued that the public interest supports the denial, rather than grant, of the injunction that the VVA and VMW sought. In essence, it claimed that Congress, after careful balancing, has determined that the VA's (broken) system is simply the one with which disabled veterans must live, and that it should not be held accountable for its failures.

December 17, 2008

District Court Judge Reggie Walton held a hearing on December 17, 2008, to address the request for a Preliminary Injunction on behalf of Vietnam Veterans of America (VVA) and Veterans of Modern Warfare (VMW). The preliminary injunction sought an immediate court order that required the Department of Veterans Affairs (VA) to meet firm deadlines when determining whether veterans were entitled to disability benefits.

At the outset of the hearing, Judge Walton stated that, while he was very sympathetic to the plight of veterans whose benefits were being delayed, he was reluctant to take the extraordinary measure of granting a preliminary injunction – which in essence would have decided the case in favor of VVA and VMW without any evidence being taken – in the absence of a showing that all veterans whose claims were being delayed were in fact suffering irreparable harm. He also expressed concern with respect to the role that a court may play in granting the type of relief that the lawsuit seeks,

especially in light of Congress' recent passage of legislation directing the VA to establish pilot projects to consider the feasibility of the relief VVA and VMW had asked for in this case. He advised that he would set a hearing sometime in January for argument on the Government's motion to dismiss the lawsuit.

Stay Tuned – No date for the argument on the Government's motion to dismiss the case has been set.

While the Courts are understandably reluctant to second guess a Congress that has not defined what is a "reasonable" time for the VA to decide benefit claims, courts have repeatedly stated that, at some point, benefits delayed are virtually the same as benefits denied. Lawsuit updates are being posted on the www.veteransnewsroom.com website.

MEDIA COVERAGE

The lawsuit has received extensive media coverage. More than 100 news stories have been secured in TV, radio, print and online media outlets. Placement highlights include:

TV

- CNN *Campbell Brown: No Bias No Bull*
- Fox 5 Morning News (DC)
- Good Morning Washington
- MD Report: NewsChannel 8 (DC)
- Federal Report : NewsChannel 8 (DC)
- Good Day Philadelphia
- Good Morning Richmond
- Good Morning Charleston (SC)

Newsires

- Associated Press
- Cox News Service

Radio

- CBS News Radio, WSB Atlanta
- Firebase Network Veterans Hour
- Pacifica Radio, Free Speech Radio News
- XM Radio

Print

- Austin American-Statesman
- New York Times
- Orlando Sentinel
- Raleigh News and Observer
- San Diego Union Tribune
- St. Petersburg Times
- Washington Post

Online

- Air Force Times Online
- Army Times.com
- Businessweek.com
- CNN.com
- Legal Times.com
- Marine Corps Times.com
- Military.com
- NavyTimes.com
- Salon.com
- Seattle Post Intelligencer: Now Hear This Military Blog
- Stars and Stripes
- US News & World Report Online

WEBSITE

The VVA and VMW launched www.veteransnewsroom.com to provide lawsuit updates and information to interested parties about the lawsuit. The site contains an overview of the lawsuit and copies of the actual legal filings. Press materials and media coverage are available in the "Press Info" area of the site. Additionally, visitors can find profiles of veterans affected by delayed benefit decisions, and an area to submit personal stories. In addition, the "Get Involved" area of the site provides model letters (including one which can simply be printed, addressed, and signed) to send to elected officials concerning the benefits delay issue, as well as their contact information.

The site has received 3,513 visitors since it was launched in mid-November and more than 400 individuals have signed up for email updates.

