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Re: C 26 774 090  
Docket No. 03-15 360A

Dear Mr. Hachey;

I remind you once again of Judge Kramer's **MEMORANDUM DECISION** dated February 23, 1907, found on page four, paragraph three, "...as the Board is required to readjudicate his appeal anew." On October 3, 2011, I received the fifth and highest positive results of porphyria cutanea tarda (PCT). I asked my physician about my first and only denial of PCT as caused by heredity. He stated that if that were true, I would be greatly deformed by the age of ten.

He also stated that he had never seen such high numbers from Agent Orange and believes those numbers reflect those of one of the "Rainbow Agents". He was especially interested in the soil tests sent you that exceed the lethal dosage of dioxin from one hundred to three hundred fifty times the lethal dosage of dioxin.

He is service-connecting me for PCT, of which he stated will be with me the rest of my life. I will be required to take an iron test every three months, and if my iron levels are too high I will have to have a blood withdrawal replaced by a donor's transfusion. One more example of the BVA's clear and unmistakable errors, reaffirming the Tucker Act.

There is now not one reasonable doubt that I have far surpassed the requirements for 100% service-connected, permanent and total, for unemployability from early April, 1970. Of our five man Ranger

Team, according to the Roster sent us in 1987 by the DOD, I am the only member on the mission we encountered Agent White alive as of that Roster, of which you have been given a copy thereof. Four Rangers in the top 1%, both mentally and physically of all the Armed Forces, dead in their mid-thirties. Further In Affidavit dated June 9, 2001, my parents and sister stated "Affiants further state that since Timothy's return from Vietnam he seemed to continually be sick."

Further "The United States Court of Appeals for Veterans Claims (CVA) has ruled that BVA can no longer determine the fate of a veteran's claim without sharing all the information it has on the case with the veteran before it makes it makes a final decision. CVA also ruled that " veterans who have had their VA claim denied, may have them re-examined if their cases contained clear and unmistakable errors (CUEs)." This is certainly the case of BVA's denial for service=connection for PCT because of heretical reasons. BVA must review this denial for clear and unmistakable errors according to CVA ruling.

After I was released from the malaria isolation ward (the soldier in the bed next to mine died), 1LT John H. Armstrong , Platoon Leader of H Co., 75<sup>th</sup> Inf. came to visit me at the 93<sup>rd</sup> Med Evac Hospital. I have not been able to locate him, but he could certainly testify to the fact that I was recovering from a very bad case of malaria. Those medical files are missing. Another very clear example of missing records, again from the 93<sup>rd</sup> Evac Hosp, are the day I arrived on 21 Sept 70 to my discharge on 22 Oct 70. Every day I was given blood pressure and temperature, all documented, along with the various lab tests taken and the letter from my doctor who stated that from all the tests given me he felt that I was suffering from some type of chemical poisoning. The same thing happened at Fort Riley, Kansas, along with the same diagnosis.

From my discharge at the 93<sup>rd</sup> Med Evac Hospital on 22 Oct 70, I never returned to active duty. This is the same, while on active duty that I was unemployable. The BVA should recognize this and now that I am officially recognized by the VA, I should be granted 100% service-connected from my discharge date of May 14, 1971 through the present time with interest per the Tucker Act, for chemical poisoning by Agent Orange and Agent White. The Society of Toxicology has verified this per the Pentagon Papers and the soil and water tests taken (of which I sent you a copy).

Had the BVA practiced due diligence, neither the Pentagon Papers nor the Department of Veteran's Affairs web site of November 1, 2010 cover entitled The "Rainbow Agents", Agents White, Blue, Red or Purple were given a toxicological index, as was Agent Orange and none of this would have been in their brief, had they practiced due diligence. Now it must be because the Pentagon Papers show soil and water samples of sprayed sites to be one hundred to three hundred fifty times the lethal dosages of dioxin in these said Rainbow Agents. No answer is an answer. As a holder of the Air Medal, I have seen many different sprayed areas, none worse than Agent White, maybe that is why it is listed first in the Rainbow Agents article. This Remand is now five months shy of five years. All the documentation is now out shy the toxicological index for the Rainbow Agents by the BVA.

The BVA holds all the documentation to show the CVA and Appellant that he has suffered from the highly toxic effects of dioxin poisoning since early April of 1970 and while in the service was held a status of no duty or unemployable from October 22, 1970 to my ETS on May 14, 1971. If not for the holistic medical approach taken by Dr. David Garrett, which I follow to this day, Appellant would by now joined his deceased fellow Rangers on that fateful mission in early April of 1970. Again, the CVA ruling on sharing medical evidence with the veteran has been breached.

For the rest of my life I will have to take iron tests every three months I am required to take lab tests for iron levels. Should they be too high, I will have a blood-letting, replaced with a donor's blood. Appellant has already been granted the highest award possible for Hepatitis C (my neighbor, after two treatments and a transplant died five years ago) with chronic fatigue. The Mayo Clinic diagnosed me with Chronic Fatigue Syndrome and Lymphocytosis. These, and all the medical diagnoses made by VA Dr. Steven F. Kator dated January 10, 2003 and the above Mayo Clinic and Social Security Administrative Law Judge are now in that certain light of the Pentagon Papers and the "Rainbow Agents" should now be all service-connected for both Agent Orange and Agent White exposure which contained a possible three hundred and fifty times the maximum safe exposure to dioxin. These facts certainly put me in the unemployable service-connection, permanent and total from my ETS. Along with PTSD, permanent and total, the merits of this case have been established.

The high probability of any or all of these medical disorders caused by a very high dioxin exposure and the fact that I am the only remaining member on that mission alive at least until 1987, demand that Appellant seek a Mandatory Injunction: "One which (1) commands the defendant to do some positive act (immediately reply to court-ordered Remand Reply) or particular thing; (2) prohibits him from refusing(or persisting in a refusal) to do or permit some act to which the plaintiff (Appellant) has a legal right (the merits of this case are clear to any prudent man and are exhausted); or (3) restrains the defendant from permitting his previous wrongful act (numerous CUEs) to continue operative, thus virtually telling him to undo it." - Black's Fifth Law Dictionary.

Once back in the hands of the CVA in the form of a Remand Reply from the BVA, Appellant need only supply the CVA with the numerous exhibits sent the BVA which prove the merits of this case. "Interlocutory Injunctions are those issued at any time during the pendency of the litigation for the short-term purpose of preventing irreparable injury to the petitioner prior to the time that the court will be in a position to grant permanent relief on the merits...". -Black's Fifth Law Dictionary- .

In 1987, I received a large packet from the Department of Defense. The cover letter was addressed to me and in that letter I was advised that I am a life member of the most highly decorated Ranger Company in the history of the Vietnam conflict. The DOD also stated that our Unit Crest was the only one in the entire Armed Forces that goes back to the Revolutionary War. They closed with stating "We are proud of your gallant service for you are truly an honorable man." Also enclosed was our Company Roster. As I had been ill since early September of 1970, I wanted to call the other four members of the mission in which we encountered Agent White (because of the 2,000 feet of white smoke) and spoke with one mother of that team. She described "His horrible death" and asked me not to call again.

The praise of the DOD was clearly contradicted by the lies and deception of the BVA. From missing medical records to outright lies, I decided after reading our Roster, and the continual pain I suffer from (fourteen years of morphine and oxycodone) that I would expose the fact that never again should our Armed Forces be allowed to omit telling our United States Soldiers about the dangers of unknown Agents and commit actions that led to the early deaths of four Rangers and the continual suffering of the fifth man on that mission in early April of 1970.

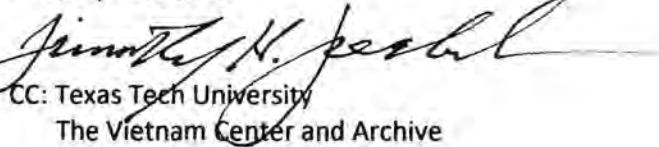
Over the past forty years, I have seen and heard about many others who have suffered the same fate, or like myself, still suffer the pain of exposure to massive doses of dioxin as described in the Pentagon Papers. I wonder if the Department of Veterans Affairs, after forty years, would have come out with the "Rainbow Agents" if not for the knowledge that the Pentagon Papers were being made public. We have still yet to find out which of the "Rainbow Agents" had three hundred fifty times the lethal dose of

dioxin. Since the BVA has not found it relevant to provide the toxicological index for each of these Agents, then I can state that Agent White had three hundred fifty times the lethal dose of dioxin. At that rate of exposure to dioxin, it is no wonder that despite the detoxifying herbs I take, I continue through this constant pain and suffering.

For freedom and for our Republic, for all those soldiers who served in the battlefields of Vietnam, Cambodia and Laos, for those who died or were wounded in those battlefields, it is sad enough. But to die or suffer through the rest of their lives by an unknown Agent sprayed on them by our fellow soldiers who were probably never told the truth about dioxin, this should never happen again. I write this letter in the hope that this will be the last time our Armed Forces fail to tell the whole truth to those who fight in battle in those many fields of war.

Sincerely

Timothy H. Joeckel

  
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