

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

JOHN H. COFIELD,
Appellant,

v.

DENIS MCDONOUGH,
Secretary of Veterans Affairs,
Appellee.

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Vet. App. No. 21-00473

APPELLEE’S MOTION TO DISMISS

Pursuant to U.S. Vet. App. R. 4(c), and 27(a), the Secretary moves to dismiss this appeal for lack of subject matter jurisdiction. On January 25, 2021, the Court received a Notice of Appeal (NOA) that indicated Appellant sought to appeal a September 28, 2018, decision of the Board of Veterans’ Appeals (Board or BVA). However, there is no final Board decision dated September 28, 2018.

BASIS FOR DISMISSAL

The jurisdiction of this Court derives exclusively from statutory grants of authority provided by Congress, and the Court may not extend its jurisdiction beyond that authorized by law. See *Christianson v. Colt Industries Operating Corp.*, 486 U.S. 800, 818 (1988); *Machado v. Derwinski*, 928 F.2d 389, 391 (Fed. Cir. 1991); *Dudley v. Derwinski*, 2 Vet.App. 602, 603 (1992) (en banc).

Pursuant to 38 U.S.C. § 7266(a), for a claimant to obtain review of a Board decision by this Court, the decision must be final, and the person adversely affected by that decision must file an NOA within 120 days after the date the

Board decision was mailed. “A claimant seeking to appeal an issue to the Court must first obtain a final BVA decision on that issue.” *Horowitz v. Brown*, 5 Vet. App. 217, 225 (1993). See 38 U.S.C. §§ 7266(a), 7252(a).

The undersigned counsel’s review of the information contained in Appellant’s electronic claims file has confirmed that there is no final Board decision dated September 28, 2018. On that date, rather, VA generated a Proposal to Reduce Service Connected Compensation. Exhibit 1. This letter, proposing a reduction of the rating for Appellant’s post-traumatic stress disorder, was followed by a reduction in September 2019. Exhibit 2. In July 2020, Appellant filed a notice of disagreement (NOD) requesting direct review. Exhibit 3. The last relevant correspondence is an October 2020 letter from the Board telling Appellant that his appeal had been docketed and a decision would follow. Exhibit 4. No decision has yet been issued. Thus, because there is no final Board decision, this case must be dismissed. See *e.g. Hayre v. Principi*, 15 Vet.App. 48, 51, 52 (2001) (“When the Board has not rendered a decision on a particular issue the Court has no jurisdiction.”); see also *Ledford v. West*, 136 F.3d 776, 779 (Fed. Cir. 1998).

Appellant is proceeding *pro se* and has not been contacted for his position on this motion.

WHEREFORE, the Secretary moves the Court to dismiss this appeal for lack of subject matter jurisdiction.

Respectfully submitted,

RICHARD J. HIPOLIT
Deputy General Counsel,
Veterans' Programs

MARY ANN FLYNN
Chief Counsel

/s/ Anna Whited
ANNA WHITED
Deputy Chief Counsel

/s/ Stuart J. Anderson
STUART J. ANDERSON
Appellate Attorney
U.S. Department of Veterans Affairs
Office of General Counsel (027F)
810 Vermont Avenue, NW
Washington, DC 20420
(202) 632-6948

Exhibit 1



DEPARTMENT OF VETERANS AFFAIRS

September 28, 2018

JOHN HOWARD COFIELD
2242 JEANETTE WAY
COLORADO SPRINGS CO 80951

In reply, refer to:
320/EA
File Number: [REDACTED]
JOHN COFIELD

IMPORTANT -- reply needed within 60 days

Dear Mr. JOHN COFIELD:

We have reviewed medical records concerning your service-connected conditions and noted some improvement in your Post traumatic stress disorder. Based on this evidence, we are proposing to reduce your prior evaluation of its overall disabling effect. The combined evaluation for all of your service-connected disabilities will drop from 100% to 90%. This proposed action does not affect your entitlement to treatment for service-connected conditions. We propose to reduce your monthly rate of compensation from \$3,366.71 to \$2,147.29.

We have reviewed medical records concerning your service-connected disabilities and noted some improvement. We propose to reduce our evaluations of the disabling effects for conditions as follows:

Condition	Current Percent	Proposed Percent
Post traumatic stress disorder	70%	0%

How Did We Make Our Decision?

We have enclosed a copy of our Rating Decision for your review. It provides a detailed explanation about our proposal, the reason for it, and the evidence considered.

What Evidence Can You Submit?

You may submit medical or other evidence to show that we should not make this change. You may submit this evidence in person, through the mail or through your accredited representative. The best type of evidence to submit is a statement from a physician who recently treated or examined you. It should include detailed findings about the condition. If we do not receive additional evidence from you within **60 days**, we will reduce your evaluation. Reduced payments will begin the first day of the third month following our notice to you of the final decision.

File Number: [REDACTED]
COFIELD, JOHN H

How to Obtain a Personal Hearing

If you desire a personal hearing to present evidence or argument on any point in your claim, notify this office and we will arrange a time and place for the hearing. You may use the enclosed VA Form 21-4138, *Statement in Support of Claim*, for this purpose. If you want, you may bring witnesses and their testimony will be entered in the record. VA will furnish the hearing room and provide hearing officials. VA cannot pay for any other expenses of the hearing since a personal hearing is held only upon your request. Please see the enclosed VA Form 21-0789, *Your Rights to Representation and a Hearing*, for more information.

If, within 30 days from the date of this notice, VA receives your hearing request, we will continue payments at the present rate until we have held the hearing and reviewed the testimony. Continuing to receive the current rate of payment until a hearing is conducted could result in the creation of an overpayment, which you must repay. If you request a hearing but wish to minimize any overpayment which could result, you should submit a statement asking that we reduce or suspend your benefits beginning with your next check.

You may request a hearing after **30 days**; however, we may continue with our proposed action.

How to Obtain Representation

An accredited representative of a Veterans' organization or other service organization recognized by the Secretary of Veterans Affairs may represent you, without charge. An accredited agent or attorney may also represent you. However, under 38 U.S.C. 5904(c), an accredited agent or attorney may only charge you for services performed after the date you file a notice of disagreement. If you desire representation, let us know and we will send you the necessary forms. If you have already designated a representative, no further action is required on your part.

If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.custhelp.com/ .
Write	VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail or fax all written correspondence to the appropriate address listed on the attached <i>Where to Send Your Written Correspondence</i> chart, below.

File Number: [REDACTED]
COFIELD, JOHN H

In all cases, be sure to refer to your VA file number [REDACTED].

If you are looking for general information about benefits and eligibility, you should visit our web site at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://iris.custhelp.com/>.

What Is eBenefits?

eBenefits provides electronic self-service resources to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the eBenefits website you can:

- Submit claims for benefits and/or upload documents directly to VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Request a Veterans Service Officer to represent you
- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in eBenefits is easy. Just visit www.eBenefits.va.gov for more information. If you submit a claim in the future, consider filing through eBenefits. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

We have no record of you appointing a service organization or representative to assist you with your claim. You can contact us for a listing of the recognized Veterans' Service Organizations and/or representatives. Veterans' Service Organizations, which are recognized or approved to provide services to the Veteran community, can also help you with any questions.

We look forward to resolving this issue in a fair and timely manner.

Respectfully,

Regional Office Director

Enclosure(s): Where to Send Written Correspondence
VA Form 21-4138
Rating Decision
VA Form 21-0789

Where to Send Your Written Correspondence

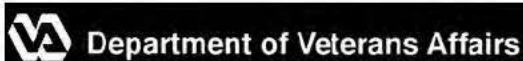
In order to properly determine where to send your written correspondence, please first identify your benefit type (Compensation, Veterans Pension, or Survivor Benefits); then, locate the corresponding address based on your location of residence.

For correspondence relating to all **Compensation** claims:

Location of Residence	Address
<p>All United States and Foreign Locations</p> <p>*Note: For foreign Veterans Pension and Survivor Benefits please refer to the below addresses.</p>	<p>Department Of Veterans Affairs Evidence Intake Center P.O. Box 4444 Janesville, WI, 53547-4444</p> <p>Or fax your information to: Toll Free: 844-531-7818 Local: 248-524-4260</p>

For correspondence relating to all **Veterans Pension** and **Survivor Benefit** claims:

Location of Residence	Address
<p>Alabama Kentucky Missouri Arkansas Louisiana Ohio Illinois Michigan Tennessee Indiana Mississippi Wisconsin</p>	<p>Department Of Veterans Affairs Claims Intake Center Attention: Milwaukee Pension Center P.O. Box 5192 Janesville, WI 53547-5192 Or fax your information to: Toll Free: (844) 655-1604</p>
<p>Alaska Montana Texas Arizona Nebraska Utah California Nevada Washington Colorado New Mexico Wyoming Hawaii North Dakota Mexico Idaho Oklahoma Central America Iowa Oregon South America Kansas South Dakota Caribbean Minnesota</p>	<p>Department Of Veterans Affairs Claims Intake Center Attention: St. Paul Pension Center P.O. Box 5365 Janesville, WI 53547-5365 Or fax your information to: Toll Free: (844) 655-1604</p>
<p>Connecticut New Hampshire South Carolina Delaware New Jersey Vermont Florida New York Virginia Georgia North Carolina West Virginia Maine Pennsylvania District of Maryland Rhode Island Columbia Massachusetts Puerto Rico Canada</p>	<p>Department Of Veterans Affairs Claims Intake Center Attention: Philadelphia Pension Center P.O. Box 5206 Janesville, WI 53547-5206 Or fax your information to: Toll Free: (844) 655-1604</p>
Countries outside of North, Central or South America	



VA DATE STAMP
 (DO NOT WRITE IN THIS SPACE)

STATEMENT IN SUPPORT OF CLAIM

INSTRUCTIONS: Read the Privacy Act and Respondent Burden on Page 2 before completing the form. Complete as much of Section I as possible. The information requested will help process your claim for benefits. If you need any additional room, use the second page.

SECTION I: VETERAN/BENEFICIARY'S IDENTIFICATION INFORMATION

NOTE: You will *either* complete the form online or by hand. Please print the information request in ink, neatly, and legibly to help process the form.

1. VETERAN/BENEFICIARY'S NAME (*First, Middle Initial, Last*)

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2. VETERAN'S SOCIAL SECURITY NUMBER

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3. VA FILE NUMBER (*If applicable*)

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4. VETERAN'S DATE OF BIRTH (*MM/DD/YYYY*)

--	--	--	--	--	--	--	--	--	--

5. VETERAN'S SERVICE NUMBER (*If applicable*)

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6. TELEPHONE NUMBER (*Include Area Code*)

7. E-MAIL ADDRESS (*Optional*)

8. MAILING ADDRESS (*Number and street or rural route, P.O. Box, City, State, ZIP Code and Country*)

No. & Street											
Apt./Unit Number						City					
State/Province		Country		ZIP Code/Postal Code							

SECTION II: REMARKS

(The following statement is made in connection with a claim for benefits in the case of the above-named veteran/beneficiary.)

VETERAN'S SOCIAL SECURITY NO.

				-					-				
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SECTION II: REMARKS (Continued)

(The following statement is made in connection with a claim for benefits in the case of the above-named veteran/beneficiary.)

SECTION III: DECLARATION OF INTENT

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

9. SIGNATURE *(Sign in ink)*

10. DATE SIGNED *(MM/DD/YYYY)*

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.



You have some important rights in your claim with VA. You don't have to handle your case by yourself, and you don't have to deal with us only through the mail. On this page we'll tell you about your right to have your own representative. We'll also explain your right to a personal hearing.

WHAT IS A REPRESENTATIVE?

A representative is a person who helps you tell us your side of the story. The representative can help you with written materials you send us. He or she can also go with you to a hearing if you decide you want one.

WHO CAN BE MY REPRESENTATIVE?

There are three kinds of representatives. Each is explained below:

- You can choose an employee of a veterans organization or other service organization which is recognized by VA. On page 2 of this form we have a list of some service organizations that could represent you free of charge.

OR

- You can get a lawyer. The lawyer might work in private practice or for Legal Aid.

OR

- You can get an agent. An agent is anyone other than a lawyer or a service organization who is authorized by VA to speak for you or help you tell your side of the story.

If you don't have a representative and would like one, tell us who you want to represent you. then we'll send you the forms and information you'll need to name your representative.

WHAT IS A PERSONAL HEARING?

A personal hearing is a meeting where you can talk to us about a decision we have made or a decision we are going to make. In most cases, the person who "hears" your claim will be the person who makes the decision. You should bring evidence to help us understand your side of the story.

CAN I BRING SOMEONE TO THE HEARING?

Yes. Besides your representative, you can bring witnesses. A witness is anyone who has personal knowledge about your claim and can give us useful information.

If you don't want a representative, but still want someone to help you at the hearing, one of our Veterans Services Representatives (VSRs) can go to the hearing with you. However, you will need to tell us ahead of time so that the VSR can study your case.

WHAT DOES VA PROVIDE FOR THE HEARING?

Generally the hearing is held at the Regional Office that has your records. We'll provide the room and tape the hearing. Where available, your hearing can also be held at a local VA hospital through a closed circuit TV system. These services are free. ***We will not be able to pay for your travel, meals, or other expenses.***

HOW CAN I REQUEST A HEARING?

If you'd like a personal hearing, simply write to us and tell us you want one. You can request a hearing by writing to your Regional Office of Jurisdiction (ROJ). To find your local office go to the following website:

www.benefits.va.gov/benefits/offices.

Click on the state in which the veteran resides to find the address of the benefits office.

WHEN MUST I REQUEST A HEARING?

If we receive your request for a hearing **within 30 days** from the date of our letter, we will not make any decisions until we hold the hearing and review the hearing testimony and any evidence presented.

After 30 days you may request a hearing, but we may have already made a decision as explained in our letter.

RECOGNIZED SERVICE ORGANIZATIONS

Here is a list of national, regional, or local organizations which are approved to help people with their claims. You don't have to belong to one of these organizations to get their help, and they won't charge you a fee. If you're looking for one of these organizations and you can't find them in your phone book, you can call us toll free at 1-800-827-1000.

African American PTSD Association	Military Officers Association of America (MOAA)
American Defenders of Bataan and Corregidor, Inc.	National Amputation Foundation, Inc.
American Legion	National Association for Black Veterans, Inc.
American Red Cross	National Association of County Veterans Service Officers, Inc.
American Veterans Committee	National Veterans Legal Services Program
AMVETS	National Veterans Organization of America
American Ex-Prisoners of War, Inc.	Navy Mutual Aid Association
American GI Forum, National Veterans Outreach Program	Paralyzed Veterans of America, Inc.
Armed Forces Services Corporation	Polish Legion of American Veterans, U.S.A.
Army and Air Force Mutual Aid Association	Swords to Plowshares, Veterans Rights Organization
Army and Navy Union, USA	The Retired Enlisted Association
Associates of Vietnam Veterans of America	The Veterans Assistance Foundation, Inc.
Blinded Veterans Association	The Veterans Coalition
Catholic War Veterans of the U.S.A.	The Veterans of the Vietnam War, Inc.
Disabled American Veterans	United Spanish War Veterans of the United States
Eastern Paralyzed Veterans Association	United Spinal Association, Inc.
Fleet Reserve Association	Veterans of Foreign Wars of the United States
Gold Star Wives of America, Inc.	Veterans of World War I of the U.S.A., Inc.
Italian American War Veterans of the United States, Inc.	Vietnam Era Veterans Association
Jewish War Veterans of the United States	Vietnam Veterans of America
Legion of Valor of the United States of America, Inc.	Wounded Warrior Project
Marine Corps League	
Military Order of the Purple Heart	

Although agency titles vary, the following States and possessions maintain veterans service agencies which are recognized to help people with their claims. You can look in the **state government** pages of the phone book under "veterans" to see if your state has a Department of Veterans Affairs or Veterans Affairs Commission.

Alabama	Illinois	Nebraska	Puerto Rico
American Samoa	Iowa	Nevada	Rhode Island
Arizona	Kansas	New Hampshire	South Carolina
Arkansas	Kentucky	New Jersey	South Dakota
California	Louisiana	New Mexico	Tennessee
Colorado	Maine	New York	Texas
Connecticut	Maryland	North Carolina	Utah
Delaware	Massachusetts	North Dakota	Vermont
Florida	Michigan	Northern Mariana Islands	Virginia
Georgia	Minnesota	Ohio	Virgin Islands
Guam	Mississippi	Oklahoma	Washington
Hawaii	Missouri	Oregon	West Virginia
Idaho	Montana	Pennsylvania	Wisconsin
			Wyoming

Points to Remember:

- **If you want a representative, you should let us know who you want. We can send you the necessary forms to appoint your representative.**
- **If you want a personal hearing, you should write and tell us.**

Exhibit 2



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

JOHN COFIELD

VA File Number



**Rating Decision
09/26/2019**

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era. You served in the Army from August 22, 2006 to November 22, 2015.

DECISION

Evaluation of post-traumatic stress disorder, depressive disorder which is currently 70 percent disabling, is decreased to 0 percent effective December 1, 2019.

A noncompensable evaluation is assigned from December 1, 2019.

EVIDENCE

- Rating Decision - Narrative, received on September 26, 2018
- Proposal to Reduce Service Connected Compensation, received on September 28, 2018
- VAMC (Veterans Affairs Medical Center) treatment records, from October 7, 2016 through September 24, 2019
- DD Form 214, Certificate of Release or Discharge from Active Duty, from August 22, 2006 through November 22, 2015
- Disability Benefit Questionnaire, PTSD Review (no show), dated August 31, 2018



JOHN COFIELD

2 of 2

- Disability Benefit Questionnaire, PTSD Review (no show), dated September 19, 2018
- Service Treatment Records, from August 22, 2006 through November 22, 2015

REASONS FOR DECISION

Evaluation of post-traumatic stress disorder, depressive disorder currently evaluated as 0 percent disabling.

Evaluation of post-traumatic stress disorder, depressive disorder
A noncompensable evaluation is assigned from December 1, 2019.

The evaluation of post-traumatic stress disorder, depressive disorder (also claimed as anxiety, insomnia, ADHD) is decreased to 0 percent disabling effective December 1, 2019 because you failed to report for a scheduled VA reexamination without good cause (38 CFR 3.655(c)(2) on August 31, 2018 and again on September 19, 2018.

A noncompensable evaluation is assigned whenever there are symptoms that are not severe enough either to interfere with occupational and social functioning or to require continuous medication. A higher evaluation of 10 percent is not warranted unless there are mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress; or symptoms controlled by continuous medication. (38 CFR 4.126, 38 CFR 4.130)

- 38 C.F.R. §3.321 General rating considerations.
- 38 C.F.R. §4.1 Essentials of evaluative rating.
- 38 C.F.R. §4.2 Interpretation of examination reports.
- 38 C.F.R. §4.3 Resolution of reasonable doubt.
- 38 C.F.R. §4.6 Evaluation of evidence.
- 38 C.F.R. §4.7 Higher of two evaluations.
- 38 C.F.R. §4.10 Functional impairment.
- 38 C.F.R. §4.20 Analogous ratings.
- 38 C.F.R. §4.31 Zero percent evaluations.
- 38 C.F.R. §4.130 Schedule of ratings—Mental disorders. (9411)
- 38 C.F.R. §3.400 General
- 38 C.F.R. §3.655(c) Failure to report for Department of Veterans Affairs examination

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.



Exhibit 3

Office DEPOT OfficeMax[®]

complimentary fax cover sheet

number of pages including cover sheet: 4

attention to: Board of Veterans appeals date: 07/24/2020

company: Veterans Affairs from: SSG Colfield John H.







phone #: 800-827-1000 company: Veterans Affairs

fax #: 844 678 8979 senders phone #: 719-374-7698

comments: please expect a follow up phone call on monday
07/27/2020 due to financial hardship of veteran
This is for or in regards to John H. Colfield
07/16/1984 DOB - (retired) 11/25/2015
[REDACTED]
719 493-7143
719 374-7698

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<p>local first page</p>  <p>\$ 1.89 833071</p>	<p>long distance first page</p>  <p>\$2.49 833081</p>	<p>international first page</p>  <p>\$7.99 833191</p>
<p>local additional page</p>  <p>\$ 1.69 456687</p>	<p>long distance additional page</p>  <p>\$2.19 833091</p>	<p>international add'l page</p>  <p>\$3.99 833201</p>

Department of Veterans Affairs **DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)**

PART I. PERSONAL INFORMATION

1. VETERAN'S NAME (First, middle initial, last)
John, Howard, Cofield

2. VETERAN'S SOCIAL SECURITY NUMBER
[REDACTED]

3. VETERAN'S VA FILE NUMBER (if different than their SSN)
C/CSS - [REDACTED]

4. VETERAN'S DATE OF BIRTH
[REDACTED]

5. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last)

6. MY DATE OF BIRTH (If I am not the Veteran)

7. MY PREFERRED MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country) I AM HOMELESS
1440 Tweed St. Colo Spgs Co 80909 U.S.A. 719-374-7698

8. MY PREFERRED TELEPHONE NUMBER (Include Area Code)
719-374-7698

9. MY PREFERRED E-MAIL ADDRESS
jhcofields@gmail.com

10. MY REPRESENTATIVE'S NAME

PART II. BOARD REVIEW OPTION (Check one)

11. A Veterans Law Judge will consider your appeal in the order in which it is received, depending on which of the following review options you select. (For additional explanation of your options, please see the attached information and instructions.)

11A. Direct Review by a Veterans Law Judge: I do not want a Board hearing, and will not submit any additional evidence in support of my appeal. (Choosing this option often results in the Board issuing its decision most quickly.)

11B. Evidence Submission Reviewed by a Veterans Law Judge: I have additional evidence in support of my appeal that I will provide within the next 90 days, but I do not want a Board hearing. (Choosing this option may add delay to issuance of a Board decision.)

11C. Hearing with a Veterans Law Judge: I want a Board hearing and the opportunity to submit additional evidence in support of my appeal that I will provide within 90 days after my hearing. (Choosing this option may add delay to issuance of a Board decision.)

PART III. SPECIFIC ISSUES TO BE APPEALED TO A VETERANS LAW JUDGE AT THE BOARD

12. Please list each issue decided by VA that you would like to appeal. Please refer to your decision notice(s) for a list of adjudicated issues. For each issue, please identify the date of VA's decision and the area of disagreement.

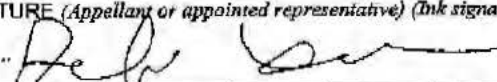
Check here if you attached additional sheets. Include the Veteran's last name and last 4-digits of the Social Security number.

Check the SOC/SSOC Opt In box if any issue listed below is being withdrawn from the legacy appeals process. Opt In from SOC/SSOC

A. Specific Issue(s)	B. Date of Decision
P.T.S.D.	09/27/2019

PART IV. CERTIFICATION AND SIGNATURE

I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

13. SIGNATURE (Appellant or appointed representative) (ink signature)


14. DATE SIGNED
07/18/2020

**INFORMATION AND DETAILED INSTRUCTIONS FOR COMPLETING
DECISION REVIEW REQUEST: BOARD APPEAL
(NOTICE OF DISAGREEMENT)**

NOTE: Use this form **ONLY** if you received your VA decision on or after **February 19, 2019**, and you wish to appeal one or more issues to a Veterans Law Judge at the Board of Veterans' Appeals. **DO NOT USE THIS FORM** to submit a Supplemental Claim (if you wish to have additional evidence reviewed by a VA rater) or request a Higher-Level Review (if you wish to have a new decision by a VA senior reviewer).

If you have any questions about the filing deadline in your case, ask your representative or your local VA office. **Filing on time is very important. Failing to submit on time could result in you losing your right to appeal.**

When should I fill out a Notice of Disagreement? If you have received a decision from a local VA office or a higher-level adjudicator with which you disagree, and you would like one or more issues to be decided by a Veterans Law Judge, you **must** fill out and submit a Notice of Disagreement. You can choose to appeal all or only some of the issues previously decided, however, **ONLY** those issues that you list on your Notice of Disagreement will be considered on appeal.

How long do I have to submit my Notice of Disagreement? Your completed Notice of Disagreement must be post-marked or received by the Board within **one year (365 days)** from the day that your local VA office mailed the notice of the decision. If you do not provide all the information requested in the Notice of Disagreement, VA will consider your form incomplete and will contact you to request clarification and explain your options.

Contested Claim: If you are one of multiple people claiming the right to the same benefit, your completed Notice of Disagreement must be post-marked or received by the Board within **60 days** from the day that your local VA office mailed the notice of the decision. VA will notify you and provide additional information if you are a party to a contested claim.

What are my options for the Board's review? You must choose **one** of three options for how a Veterans Law Judge will review the issue(s) on appeal. Determine which of the below options best fits your situation. Please note that you may choose only one option for each issue you wish to appeal.

REVIEW OPTION	DESCRIPTION
Direct Review	<ul style="list-style-type: none"> - Choose this option if you do not want to submit additional evidence, and you do not want a hearing with a Veterans Law Judge. - The Veterans Law Judge and Board team will review the issue(s) you appealed, and make a new determination based on the evidence that the local VA office considered. - Choosing this option will often result in a Veterans Law Judge at the Board being able to issue its decision most quickly.
Evidence Submission	<ul style="list-style-type: none"> - Choose this option if you want to submit additional evidence, but you do not want to have a hearing with a Veterans Law Judge. - After 90 days, any additional evidence added to your claim will not be considered by the Board. - The Veterans Law Judge and Board team will review the issue(s) you appealed, considering the evidence that the local VA office considered, along with any additional evidence that you submit within 90 days after VA's receipt of your Notice of Disagreement.
Hearing Request	<ul style="list-style-type: none"> - Please note that a Board hearing is optional, and may increase the wait time for a Board decision. - Choose this option if you want a hearing with a Veterans Law Judge, which includes the option to submit additional evidence. - The Board will contact you to schedule your hearing and provide additional information. - After your hearing, the Veterans Law Judge and Board team will review the issue(s) you appealed, considering the evidence that the local VA office considered, along with your hearing testimony and any additional evidence that you submit within 90 days after the hearing.

Find more information on the review options at va.gov/decision-reviews.

Where can I get help with filing my appeal? A Veterans Service Organization or a VA-accredited attorney or agent can represent you or provide guidance. Contact your local VA regional office for assistance or visit: va.gov/ogc/accreditation.asp.

Where do I submit my Notice of Disagreement once I have completed it? When you have completed the Notice of Disagreement, signed and dated it, you must send it to the Board at the address or FAX number below:

Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038
FAX: 844-678-8979

What if I want to modify my Notice of Disagreement? You may make a request to modify your Notice of Disagreement for the purpose of selecting a different review option in Part II. Any such request must be made by submitting a new Notice of Disagreement form to the Board within one year (365 days) from the date of mailing of the notice of decision on appeal, or within 60 days of the Board's receipt of the Notice of Disagreement, whichever is later. **You cannot request to modify your Notice of Disagreement if you have already submitted evidence to the Board or testified at a hearing with a Veterans Law Judge.**

OVERVIEW OF NOTICE OF DISAGREEMENT FORM SECTIONS

If you decide to appeal to a Veterans Law Judge at the Board, these instructions will help you complete your Notice of Disagreement.

Part I - PERSONAL INFORMATION Please provide all the personal information in Part I. If desired, you may also enter the claimant's prefix (such as "Mr." or "Ms.") and/or suffix (such as "Jr." or "Sr."). If your address has changed recently or will change soon, please notify your local VA office. If you are homeless, please check the box in item 7. If you wish to include multiple addresses, you may attach additional sheets to the form, explaining how you would like VA to contact you.

Part II - REVIEW OPTION You must check one, *and only one*, of the boxes in Part II, Block 11, to choose how you would like the Board to review the issues identified in Part III. The Board will place your appeal onto a list for consideration in the order it was received. If you wish to request a different review option for one or more issues listed in Part III, you may attach additional sheets to the form, explaining your preference.

Box 11A - Direct Review by a Veterans Law Judge: Check this box if you *do not* want to submit additional evidence and you *do not* want a Board hearing.

Box 11B - Evidence Submission Reviewed by a Veterans Law Judge: Check this box if you *do not* want a Board hearing, but you *do* want to submit additional evidence with this Notice of Disagreement or **within 90 days** following VA's receipt of your Notice of Disagreement.

Box 11C - Hearing With a Veterans Law Judge: Check this box if you want a Board hearing with a Veterans Law Judge, which includes the option to submit additional evidence at your hearing or **within 90 days** following the hearing.

If you have already submitted a Notice of Disagreement, and wish to change your Board Review Option, please fill out this form completely, indicating your new choice in Part II.

Part III - SPECIFIC ISSUE(S) BEING APPEALED TO THE BOARD List the issue(s) you would like the Board to review in Block 12A, and the date of your decision notice in Block 12B. Please refer to your decision notice for a list of adjudicated issues. If you want to appeal more issues, you may attach additional pages as needed.

Upon receipt of a Statement of the Case (SOC) or Supplemental Statement of the Case (SSOC) in the legacy appeals system, you may elect to continue your appeal either in the legacy appeals system or in the modernized review system. Your decision notice contains further details. If you are filing this form to opt into the modernized review system for any issues decided in the SOC or SSOC, you must provide notice to VA of your decision to leave the legacy appeals system for those issues. To do so when using the Notice of Disagreement, please check the box for "OPT IN from SOC/SSOC" in item 12 and list the issue(s) in the SOC or SSOC for which you are seeking review under item 12A as instructed above. Your selection of the **BOARD APPEAL** option does not prevent you from changing the review option (in accordance with applicable procedures) before the Veterans Law Judge issues a decision on the issue(s).

Please note that by checking the "OPT IN from SOC/SSOC" box in item 12 you are acknowledging the following: I elect to participate in the modernized review system. I am withdrawing all eligible appeal issues listed on this form in their entirety, and any associated hearing requests, from the legacy appeals system to seek review of those issues in VA's modernized review system. I understand that I cannot return to the legacy appeals system for the issue(s) withdrawn.

Part IV - CERTIFICATION AND SIGNATURE Please sign and date the Notice of Disagreement, certifying that the statements on the form are true to the best of your knowledge and belief. An appointed representative may sign on the behalf of the appellant.

WHAT IF I WANT TO ADD ADDITIONAL INFORMATION? If you want to provide any additional information to VA, including why you believe that VA previously decided one or more issues incorrectly, you may check the box in Block 12 and attach additional sheets to the form. For each issue, please make sure to identify the date of VA's decision. The Board will not consider any new evidence unless you selected the "Evidence Submission" option in Part II, Block 11B. The Board will consider argument submitted with any Notice of Disagreement. Please number any additional pages and include the Veteran's last name and Social Security number (last four digits only).

PRIVACY ACT STATEMENT: Our authority for asking for the information you give to us when you fill out this form is 38 U.S.C. 7105(d)(3), a Federal statute that sets out the requirement for you to submit a formal appeal to complete your appeal on a VA benefits determination. You use this form to present your appeal to the Board of Veterans' Appeals (Board). It is used by VA in processing your appeal and it is used by the Board in deciding your appeal. Providing this information to VA is voluntary, but if you fail to furnish this information VA will close your appeal and you may lose your right to appeal the benefit determinations you told us you disagreed with. The Privacy Act of 1974 (5 U.S.C. 552a) and VA's confidentiality statute (38 U.S.C. 5701), as implemented by 38 C.F.R. 1.526(a) and 1.576(b), require individuals to provide written consent before documents or information can be disclosed to third parties not allowed to receive records or information under any other provision of law. However, the law permits VA to disclose the information you include on this form to people outside of VA in some circumstances. Information about that is given in notices about VA's "systems of records" that are periodically published in the *Federal Register* as required by the Privacy Act of 1974. Examples of situations in which the information included in this form might be released to individuals outside of VA include release to the United States Court of Appeals for Veterans Claims, if you later appeal the Board's decision in your case to that court; disclosure to a medical expert outside of VA, should VA exercise its statutory authority under 38 U.S.C. 5109 or 7109, to ask for an expert medical opinion to help decide your case; disclosure to law enforcement personnel and security guards in order to alert them to the presence of a dangerous person; disclosure to law enforcement agencies should the information indicate that there has been a violation of law; disclosure to a congressional office in order to answer an inquiry from the congressional office made at your request; and disclosure to Federal government personnel who have the duty of inspecting VA's records to make sure that they are being properly maintained. See the *Federal Register* notices described above for further details.

RESPONDENT BURDEN: VA may not conduct or sponsor, and the respondent is not required to respond to, this collection of information unless it displays a valid Office of Management and Budget (OMB) Control Number. The information requested is approved under OMB Control Number (2900-0674). Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden to: VA Clearance Officer (005R1B), 810 Vermont Ave., NW, Washington, DC 20420. **DO NOT** send requests for benefits to this address.

Exhibit 4

JOHN H. COFIELD
1440 TWEED ST
COLORADO SPRINGS, CO 80909

None
None



DEPARTMENT OF VETERANS AFFAIRS
Board of Veterans' Appeals
Washington, DC

Date: October 19, 2020

In Reply Refer To: 014CREB

SS [REDACTED]

JOHN H. COFIELD
1440 TWEED ST
COLORADO SPRINGS, CO 80909

Dear: JOHN H. COFIELD

The Board of Veterans' Appeals received your Board Appeal request (VA Form 10182). Based on the Board appeal option you selected on the form, your appeal has been placed on the Direct Review docket.

What happens next?

Since you selected the Direct Review option, you can't submit any evidence to the Board. You can expect a decision on your case in an average of 365 days from today's date.

What if I want to change or withdraw my Board Appeal request?

You can choose a new Board Appeal option if you haven't had a hearing or submitted evidence. You must submit your new request within 1 year of the date on your decision letter or within 60 days of the Board's receipt of your VA Form 10182 (Board Appeal)—whichever is later. However, note that this won't speed up your appeal unless you switch to the Direct Review option, which can only be done if you haven't had a hearing or submitted evidence.

If you want to withdraw your Board Appeal request, send a letter to the Board and include your name, the VA file number for your appeal, and the reason for withdrawing your appeal.

What if I need a decision sooner?

If you're suffering a serious illness or are in financial distress, or for other sufficient cause, you can request to have your appeal "Advanced on the Docket", or moved to the front of the line. If you're older than 75, your appeal will be automatically prioritized, and you don't have to submit anything.

You can request to have your appeal Advanced on the Docket by submitting a brief explanation of the reasons why the Board should prioritize your case. You must include documentation that supports your explanation. For example, if you have:

- **Severe financial problems:** Submit a bankruptcy petition or home foreclosure notice with your explanation.
- **Serious illness:** Submit a physician's statement documenting serious illness, preferably with clinical findings, with your explanation.

What if I want to change my representation?

You have 90 days from the date the Board receives your Board Appeal (VA Form 10182) or until the Board issues a decision (whichever comes first) to change your representative. To change your representative, send a letter to the Board that lists the representative's name, address, and VSO they're affiliated with (if applicable).

How do I send documents to the Board?

All correspondence, requests, and evidence you send to the Board should include your name, the Veteran's name (if you are not the Veteran), and your VA file number. Mail or fax documents to:

Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038
Fax: 1-844-678-8979

What if I have questions?

If you have any questions about your appeal, contact your representative (if you have one) or visit va.gov/decision-reviews/get-help. You may also contact VA at 1-800-827-1000 from 8:00 a.m. to 9:00 p.m. (ET), Monday through Friday. To check the status of your appeal, visit va.gov/claim-or-appeal-status/.

Sincerely,



Kenneth Arnold
Deputy Vice Chairman

CC: None

CERTIFICATE OF SERVICE

On or before February 24, 2021, a copy of the foregoing was mailed postage prepaid to:

John H. Cofield
1440 Tweed Street
Colorado Springs, CO 80909

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Stuart J. Anderson
STUART J. ANDERSON
Counsel for the Secretary