

APPELLANT'S PROPOSED ORDER

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 18-7129

ANDREW U. D. STRAW,
Appellant,

v.

HON. ROBERT WILKIE,
SECRETARY OF VETERANS AFFAIRS,
Appellee.



s/ Andrew U. D. Straw
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Pro Se Litigant

PROPOSED ORDER

The Court, being duly advised in the premises, makes the follow ORDER regarding eligibility of appellant for the Camp LeJeune Family Member Program and relief he has earned:

FINDINGS OF FACT

1. Appellant applied for the Camp LeJeune Family Member Program but was denied this last-payer benefit under the Janey Ensminger Act first by the Veterans Administration and then by the BVA.
2. Appellant timely appealed in December of 2018.
3. Appellant was born at Camp LeJeune Naval Hospital in 1969, during the middle of the contamination period, 1953-1987.
4. Appellant's father, Phillip U. D. Straw, served in the U.S. Marine Corps from 1967 to 1971. He served at Camp LeJeune's MCAS New River from 1968 to 1970, where he learned how to maintain helicopters used by the U.S. Marine Corps in Vietnam.
5. Phillip U. D. Straw served in Vietnam from 1970 to 1971.
6. Appellant's mother died from a condition listed by the Janey Ensminger Act of 2012, the Camp LeJeune Family Member Program [website](#), and the Veterans Administration regulations: breast cancer. 38 C.F.R. § 17.400(b)(iii).

7. Appellant has bipolar disorder.
8. Appellant's first residence was "Camp LeJeune, North Carolina" and this appears on his birth certificate.
9. Appellant had base visitation and amenity privileges with his mother at Camp LeJeune and MCAS New River during the entire time Phillip U. D. Straw was stationed at Camp LeJeune and its MCAS New River.
10. Phillip U. D. Straw, his wife, and son (appellant here) slept off base at the Jacksonville, N.C., residence that appears on appellant's birth certificate. Other medical records show that Phillip U. D. Straw had a residence on base as well.
11. Appellant and his mother were both exposed to the poisons in the water at Camp LeJeune and this is an indisputable fact.
12. Appellant and his mother (and father) were ordered onto the base for over 30 days by U.S. Navy or U.S. Marine Corps officers for medical appointments, "Family Day" activities, and other normal and usual reasons any family member of a Camp LeJeune Veteran would have to be on the base no matter where they slept at night.

13. Appellant's bipolar disorder and other neurobehavioral effects require treatment, and this includes doctor appointments, medicines, home health aide services, and any other normal medical care that a person with a severe mental illness may require.
14. While appellant has Medicare when he is in the United States, he does not have such coverage in the Philippines, where he now lives in Bauan on Luzon Island. He has no health coverage due to his poverty caused by this poisoning and the discrimination of others. He is in fact due to this pervasive American government discrimination an asylum seeker and a Person of Concern (POC) of the Philippines Department of Justice as of October 2, 2019.
15. The past and present discrimination of courts based on disability is not disputable and was found and adjudicated in *Tennessee v. Lane*, 541 U.S. 509 (2004).

LAW AND ITS APPLICATION

16. The Janey Ensminger Act of 2012 is principally in the U.S. Code at 38 U.S.C. § 1787 ff.

17. The central dispute here is whether the Act covers a family member of a veteran who served at Camp LeJeune, like Phillip U. D. Straw did for 18 months.
18. The Congressional Record and statements of the principal sponsor, Rep. Miller (NC), show an intention to cover everyone who was poisoned by the base water contamination and exhibited the listed ailments.
19. 38 U.S.C. § 1787 indicates that the coverage is for family members of veterans who were *stationed at* Camp LeJeune during the contaminated period.
20. The trouble comes in interpreting 38 U.S.C. § 1787(a), which appears to require living at or residing at Camp LeJeune. This language can be interpreted broadly or narrowly but given the remedial nature of the Act and the civil rights purpose after such a long period of “shameful denials” and “failure to take responsibility,” the **lived at** and **resided at** language do not mean that a veteran’s family member needed to live in base housing if he did not. This would create an exclusion based on where a person

slept that has nothing to do with whether the poisoned infant such as appellant here came onto the base repeatedly and was poisoned.

21. The operative and controlling language is that found in 38 U.S.C. § 1787, namely that the controlling factor is whether the veteran **served at Camp LeJeune** for over 30 days.

22. Given the fact here that Phillip U. D. Straw served at Camp LeJeune for about **18x this 30 day requirement**, Sgt. Phillip U. D. Straw served there long enough that his son, appellant, is eligible for the Janey Ensminger Act benefits. MCAS New River shall be considered as part of Camp LeJeune. 38 C.F.R. § 17.400(b).

23. Anyone who was born at Camp LeJeune shall receive a **presumption of eligibility** that the Veterans Administration can only rebut by proving that the veteran parent of that infant did not **serve at the base** for 30 days or more. That cannot be done here.

24. The Veterans Administration is incorrect when it imposes a residency requirement on the base and completely ignores the “stationed at” language of 38 U.S.C. § 1787.

25. Any interpretation of the Act that ignores this language in 38 U.S.C. § 1787 defies the will of Congress to cover the family of any

veteran who was stationed at Camp LeJeune or MCAS New River for over 30 days during the contamination period.

26. There are two requirements to get this coverage. First, that a veteran served over 30 days at Camp LeJeune during the 1953-1987 period. Second, that this veteran had civilian family members with her or him when serving at the base and it does not matter where the veteran or the family members slept at night, but merely if those family members came onto the base and used it so that they were poisoned.

27. Here, the first requirement is proven by Phillip U. D. Straw's DD-214. There is no dispute that he served at Camp LeJeune and MCAS New River for about 18 months during the 1953-1987 contamination period, in his case from 1968 to 1970.

28. Appellant was born at the base and used the base and was ordered onto the base and should be considered as having used the base and lived at that base every day his father was **stationed there**.
38 U.S.C. § 1787

29. Appellant has a disability covered by the Act and the VA regulations. 38 C.F.R. § 17.400(b)(xiv). His mother died from

another on the list. 38 C.F.R. § 17.400(b)(iii). Appellant shall be granted this benefit.

30. As a matter of law, appellant has bipolar disorder and these and his other neurobehavioral effects were directly caused by Camp LeJeune poisoning by the U.S. Navy and the U.S. Marine Corps. This is beyond dispute and no one may ever question these facts again in any context. They are now adjudicated with this ORDER.

31. As a matter of law, appellant's mother, Sandra K. Isaacs Straw Stevens, was poisoned by the toxins at Camp LeJeune and died from breast cancer as a direct result. She was poisoned by the U.S. Marine Corps and the U.S. Navy and this poisoning killed her. These facts are beyond dispute and as a matter of law to settle this matter forever, no one may ever question these facts again for any reason or in any context. They are now adjudicated with this ORDER.

32. The facts here are not in dispute as a matter of law. The VA and the BVA below violated due process in denying this very easy claim to grant and there shall be damages granted to the appellant for the arbitrary, capricious, and even hateful denial of the benefit

this appellant earned after **50 years of neurobehavioral effects** and pain, and the death of his mother from this same source. There is a level of disrespect for the service of Phillip Straw and his wife and son's suffering that must be compensated under this program.

33. This Court finds that appellant Andrew U. D. Straw is eligible for this program and is here granted access to it without any reservation. All privileges shall be immediately granted under this program to Andrew U. D. Straw.

34. Straw is entitled to payment of every claim he has made to this program from 2014 forward, including specifically claims for his home health aide (up to 80 hours per week at \$21 per hour), medicine, doctor visits, and other normal and necessary costs associated with any of his neurobehavioral effects.

35. Straw has been injured by state and federal courts removing his law licenses and attacking him since 2014 because he has bipolar disorder caused by this Camp LeJeune poisoning. It shall be considered a medical expense covered by this program, every cost and deprivation associated with discrimination against Straw based on this Camp LeJeune bipolar disorder. Compensating these

expenses and injuries shall be the damages allowed to appellant for the due process violations in denying him for so long without any good reason. See, *Straw v. Indiana Supreme Court, et. al.*, 1:16-cv-3483-JMS (S.D. Ind. 2/16/2017) (Dkt. 1-11 & Dkt. 1-13).

36. Given the long delay here, Straw's claims shall be paid within 14 days of submission. All claims he has heretofore submitted shall be paid within 14 days and Straw shall be notified by email that his claims have been accepted within 3 days of receipt. Straw has 2 years from the date of this ORDER to submit his claim for the other damages inflicted on him based on his bipolar disorder. Those claims shall be automatically granted no matter what the amount.

37. It being so found and in the interest of justice, it is so ORDERED.

Hon.

Date

I, *appellant* Andrew U. D. Straw, verify that the above statements and facts presented are true and correct on penalty of perjury.

October 30, 2019

Respectfully,



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CERTIFICATE OF SERVICE

I, Andrew U. D. Straw, certify that I filed this PROPOSED ORDER with the Clerk of the Court on **October 30, 2019** via email. Opposing counsel will receive a copy of this pleading when the Clerk enters this document into the docket. I will also send a PDF of this MOTION to the email address of the appellee's attorney of record.

Respectfully,



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