

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
625 Indiana Avenue, NW Suite 900
Washington, DC 20004-2950

APPELLANT'S INFORMAL BRIEF

Docket No: 19-2133

Albert C. Washington,

Appellant,

v.

Robert L. Wilkie,
Secretary of Veterans Affairs,

Appellee.

Type or legibly write your answers to each question. If the Court cannot read your handwriting, your brief may be returned to you.

1. If there is more than one issue listed on the first page of the Board decision, which issue(s) are you appealing?

Please note that if you choose not to list an issue here, the Court might not review that issue.

See the six issues on the attached five pages.

Questions 2-6 ask you for information regarding the issues you believe were incorrectly decided by the Board.

2. For each issue you listed in Question 1, did the Board incorrectly state any facts?

Yes No

If yes, what are the correct facts? Please list the page number(s) from the Record Before the Agency (RBA) that support your argument.

See the five pages attached, which the six issues

3. Are there any documents in the Record Before the Agency (RBA) that support your claim(s)?
Yes No

If yes, what are those documents? Please list the page number(s) in the RBA where they can be found and explain why you think they support your claim.

See the five pages attached with the six issues.

4. Did VA fail to obtain any documents identified by you or your representative or mentioned in the Record Before the Agency (RBA) when it was gathering evidence for your case?
Yes No

If yes, list the page number(s) of the RBA that show that these documents exist and explain:

- How each document relates to your claim(s)
- Why each document is important to your case

The Court cannot consider documents that were not before the Board. Also, please do not attach any pages from the RBA.

See the five pages attached, which list the six issues.

5. To your knowledge, did the Board fail to apply or misapply any law, case, or regulation?
Yes No

If yes, what is that law, case, or regulation and how should the Board have applied it?

See the attached five pages that have six issues listed.

6. Do you think that the Board decision is wrong for any other reason(s)?
 Yes No
 If yes, what are those reason(s)? Please list the page number(s) from the RBA that support your argument.

See the five pages attached with the six issues

Finally, Questions 7-8 ask you for information that will help the Court process your case.

7. What action do you want this Court to take?
 I would like for the court to grant those issues

8. If you needed extra pages to answer the questions above, how many extra pages did you attach to this form? _____

Please remember that your brief cannot exceed 30 pages total (including this form). Do not attach any pages from the RBA.

On any attached pages, make sure to include your name and your Court docket number.

Please sign and date this form after you have finished completing it.

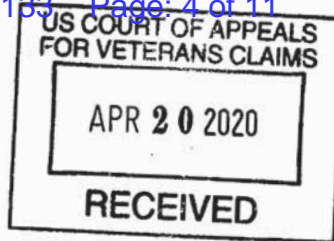
Appellant's Telephone Number: (334) 994-4862

Appellant's Address: 34147 Al Hwy 10, Sweetwater, AL 36782

Appellant's Signature: Albert C. Washington

Date: 08-20-2019

Docket No: 19-2133



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Appellant's brief in support of claim

Appellant would like to bring attention to the Court, facts that can clear up these claimed issues that are now before this Court. There is one fundamental element of all the claimed issues that have been denied by the BVA that have not been considered by the BVA, VARO, or the 11-14-2014 C&P DBQ Examiner. Until this fundamental element that appeared on appellant's 07-21-2014 form 21-4138, on RBA page 1253 has been resolved, there can be no resolution to any of the BVA denied claimed issues. That element is the medication methyIPERDNISolone which appellant claimed this medication and the NSAID have caused his GERD\gastritis and heart disease on this form on RBA page 1253. Since these VA's named agencies mention above was busy committing fraud of appellant's claimed issues, none ever address the cause and effects of this medication. Beside the other fraud made by the 11-14-2014 C&P DBQ examiner, that gave VARO and the BVA false, misleading information that denied Appellant's claimed issues.

Issue number 1: Appellant's denied entitlement to an initial rating in excess of 10 percent for GERD. The BVA error on RBA page 15. It error for the form 21-4138 07-21-2014 stated GERD/gastritis by appellant. The BVA relying on this incompetent, inadequate, or fraudulent 11-14-2014 C&P DBQ examiner caused it. The BVA error when it neglect appellant's contents of his esophageal conditions on RBA page 1006 of the 07-21-2014 form 21-4148, that listed what these medications had caused to him. The examiner, VARO, or the BVA did not comply with what appellant stated on this form. He stated "GERD\gastritis, heart disease\secondary to medication (NASID and

methyIPREDINESolone) for a service connected knee.” The anemia, weight loss, abdominal pain and chemical gastritis surgical pathology report diagnosis 12-03-2010 on RBA pages 1296-1299, had met the criteria for the 60% rating that the BVA denied on RBA page 16 of this claimed issued. If not see Rush foundation Hospital ED 09-14-2017 on RBA pages 44-46 diagnosis primary syncope and collapse, history of gastrointestinal bleed. In this syncope episode appellant was tested by one of Medtronic (the maker of the ICD) technician to see if this syncope episode was caused by his heart as in the pass. The test of the ICD was negative. His stool had tested positive for blood (melena). He was given three units of blood in a transfusion. At this point appellant unintentional had lost nearly 70 lbs. This is close to death that you can get when passed out and don't know that you are in this world. If some of the member of South Marengo County rescue squad had not been close by, that hope revised him, he would most likely deceased right then. This syncope episode was caused by loss of blood from the GI tract, seen as diagnosis in the above section, caused by those medications.

Issue number 2: Appellant denied heart disease by the BVA on RBA pages 11-14. Appellant again make known that all the medications on his 07-21-2014 form 21-4138, has not been consider by VA. Additional appellant never did claim CAD as his heart disease cause by these medications. The 11-14-2014 C&P DBQ examiner made this selection of CAD. Appellant had been diagnosis with CAD. He is not claiming these medications cause CAD, and this is an error to do so. These heart disease seen on this page are plural, “Heart conditions: (including ischemic & Non-ischemic Heart Disease, Arrhythmias, Valvular and Cardiac Surgery) Disability Benefits Questionnaire.” But the

fraudulent 11-14-2014 C&P examiner, answer no to all these questions, when nearly all had occurred to him. CAD is least likely caused by these medications on this form. The examiner knew appellant had other heart disorders listed in this questionnaire. The 03-01-2012 echocardiogram the examiner used to answer question 13 on RBA page 1003, is on RBA pages 364-365. Primary indication: Sick sinus syndrome, bradycardia. Bradycardia is a form of arrhythmias, and the pacemaker was implanted for this syndrome. But the C&P examiner answer that appellant never had cardiac arrhythmias or the pacemaker. This echocardiogram proved that this C&P examiner answers are false on RBA pages 997-1006. The BVA error to deny this claimed issue by this erroneous information supplied by this fraudulent examiner.

The BVA error on RBA pages 11-13 over appellant objection in his 03-13-2015 NOD on RBA pages 460-461. "This C&P examiner made to many errors in this examination of the veteran, to evaluate and give a medical opinion of his heart condition." The BVA did not agree, because they denied this claimed issue base on this false evidence. Appellant filed additional evidence for my on going-appeal for my heart. Signed 10-02-2017, seen on RBA pages 96-102. This proved the 11-14-2014 C&P DBQ examiner wrong about NSAID don't causes heart diseases. In 2005 FDA issued a warning about non aspirin NSAIDs advising they could increase the risk of heart attack and stroke. This in contrary to the 11-14-2014 C&P examiner opinion to cause VARO and BVA to deny his claimed.

Issue number 4: Entitlement to service connection for hepatitis/liver disorder disease. The BVA on RBA pages 14-15 error when denied appellant's liver disorder, base on what in his STR and the false medicals finding made by his BVAMC PCP. In his STR on RBA

page 447, show that appellant at West Point NY in July 1969 had to take two injection of immune serum globulin for hepatitis contact. Half of the 82nd Airborne Division was station at West Point the summer of 1969 to control riots in the Northern US. His roommate had tested positive for hepatitis from IV drug use. Appellant was not tested for hepatitis, later when his serum liver enzyme ALT and AST start to test abnormal high, he knew he had some type liver damage. On RBA pages 1273-1281 the complete story is not told. This erroneous evidence told by his BVAMC PCP is what the BVA relied on to deny his hepatitis disorder. What cause the 11-18-2008 GT finding is false. This 11-18-2008 GT reveal "mildly enlarge mildly fatty and borderline cirrhotic liver correlate with liver enzymes and hepatitis serologies." This opposed what the BVA stated on RBA page 14 in regard to the BVAMC PCP said "LFTs normalize" when it was not.

Issue number5: Entitlement to compensation under 38 U. S. C. section 1151 for stomach and esophageal secondary to esophagogastroduodenoscopy (EGD) procedures performed on February 4, 2008, and August 5, 2008. Appellant never recall making this claim. If he is correct of what this claim is, then he did make the claim "medical malpractice to continue prescribe the NSAID to him every since the BVAMC GI specialist in the 98. EGD procedure stated no NSAID: NSAID caused these BVAMC EGD procedures in 2007 and 2008". In the BVAMC EGD procedure on 08-05-2008 RBA page 1491 there were 10 BXs taken from his GI tract. But on RBA pages 1522-1523 reveal only 9 BXs was received in pathology report. Plus a supplementary report has been added. In the microscopic block B and C were diagnosis as no significant pathologic changes. These are the two block were stained with alcian yellow. Both blocks are negative for H. Pylori.

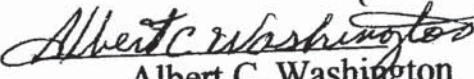
Control stains appropriately. How can you tell what appellant's had when these blocks stained is where the missing BX tissue is of his GI tract? Now this wrong is before VA's Secretary of Veteran's Affairs, let see what he going to do about this.

Issue number 6: Appellant entitlement to compensation under 38 U.S.C Section 1151, for VA causing him to go blind in his right eye in 12/2012. This claim issue has not been official brought before the BVA. The medical records in the RBA where he official sought this claimed issue from VARO was before the BVA. On RBA page 1229 VARO indicated where he had official a claim of damage to the eye. "4138 dated 12-4-12 (tabbed) in claim file also shows he stated he has eye damage and hepatitis (liver was previously denied 10-2-08 also 2nd to medication with no opinion). Clarify with veteran what type of claim he is claiming for eye damage." This was not done and he can prove VA caused blindness in the right eye. On RBA page 1327 VARO reveal receiving appellant's application for benefits. What cause eye damage is on RBA page 1326 pulmonary clinic note. Patient work in for facial swelling 2/2 symbicort. Seen on RBA page 513 where BVAMC Pulmonary clinic had earlier prescribed albuterol and symbicort at same time for COPD. Since symbicort had lately came out appellant's medical dictionary did not list it. When his face swollen nearly closing the right eye, he stop taking the symbicort because he knew he had a allergic reaction. Later that same year his right eye developed a blind spot in the center that widen until he became complete blind in it. He has asked optometry, doctors what caused this, with no answers, until finding on the internet. Patients who are receiving symbicort should not use additional formoterol or other LABA for any reason. This is malpractice, conspiracy by a meeting of the minds to concealing it.

CERTIFICATE OF SERVICE

I certify under the possible penalty of perjury under the laws of the United States of America that, on August 20, 2019, a copy of the foregoing was mail postage prepaid to:

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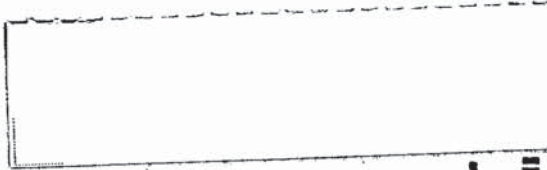
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