

SEP 4 - 2019

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UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

625 Indiana Avenue, NW Suite 900
Washington, DC 20004-2950

APPELLANT'S INFORMAL BRIEF

C. U. E's

Docket No: 19-2840

Oscar Johnson,

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. ALL ISSUE(S) DENIED - Low BACK disability (BOARD states New MATERIAL - WAS RECEIVED) BUT, changed to [NO treatment IN SERVICE], New MATERIAL hepatitis C; ALL ENTITLEMENTS DENIED - IN ORDER.

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.

First, Appellant must state OF FACTS AND DOCUMENTS IN EACH Vol. AS A FACT - in 30 PAGES. SEE: RBA PAGE 7 - REASONS AND BASES FOR FINDING AND CONCLUSIONS - NEW AND MATERIAL FOR Low BACK Disability - The Board states - SEE: Cont. 2

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.

They will be listed as
Appellant Address the Issue.

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.

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?

AFTER A disability HAS BEEN
ESTABLISHED "Actual Fact" FOUND, it
should be Addressed - Not place Vet. in
JEOPARDY by BRING N+M EVIDENCE.

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.

LOST ARE VETERAN'S RECORDS -
VETERAN'S CLINICAL RECORDS (while in Hospital)
+ VETERAN'S MEDICAL RECORDS - FOR TREATMENTS
AFTER THE ACCIDENT (JEEP ACCIDENT)

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?

APPELLANT CAN ONLY PRESENT + ANSWER
WHAT IS BEFORE HIM, AND VETERAN ASK
THE COURT TO BE IMPARTIAL

8. If you needed extra pages to answer the questions above, how many extra pages did you attach to this form? 9, plus 6 (CONSTITUTIONAL QUESTION)

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:

702-786-3239

Appellant's Address:

P.O. BOX 1540, Pahrump, NV 89041

Appellant's Signature:

O. Alf.

Date:

8-29-19

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CONT. #2 - BACK

"The Veteran contends" THERE is no Contradictions in this statement - SEE: PAGE (RBA) 132. This Document is Admission Notes to Ft. Irwin Army Hospital. It has injuries Found - DATE, VEHICLE AND PLACE & LOCATION OF ACCIDENT.

Now, we go down to the next paragraph - stating "ENTITLEMENT TO SERVICE CONNECTION FOR A LOW BACK disability WAS FIRST DENIED in A SEPTEMBER, 1988 RATING DECISION". A (CLEAR AND UNMISTAKABLE ERROR). SEE: (RBA) PAGE 134 - This is VETERAN'S FIRST (C&P) Award. EXAMINATION - This Document is AN Award Letter - we'll start with Appellant's NAME - The Fifth Line down on the left - then go across the page to the end of the numbers on that line, now, under the numbers - two lines down you'll see - A word Appellant can't make out, then Award = JUN 01, 1983

CONT.
PAGE 1 (FOR #2)

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Cont. #2

1
2 Look to the LEFT of the page About
3 Half way down you'll see - Disabilities -
4 It shows - Combined % = 10 SC/TOTAL =
5 1/6, NOW go BACK to the LEFT and
6 go down and the Disabilities are
7 named (Found disabilities) BACK is the
8 last. The VA was calling my BACK
9 injury (BACK strain) at that time,
10 But they did establish BACK
11 disability at that time. So the VA
12 found, established an ACTUAL "FACT".
13 yet, the VA now declare "UNESTABLISHED"

14
15 Now, we'll go to PAGE 9, third
16 paragraph down where start - "In August
17 2009" founding it is less likely than
18 not-related to SERVICE, because of "NO
19 treatment in SERVICE - FOR BACK."

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21 Now, we turn to PAGE 133, at the

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Cont.
PAGE 2 (FOR #2)

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Cont. #2

Top of the page you'll see RX=
DEXAMYL, and below that you'll
see DEXAMYL-REFILL — Now DEXYL
is the TRADEMARK NAME FOR
DEXAMETHASONE (DRUG) [METH] which
is the ACTUAL MEDICINE. Now,
turn to PAGE-365, Appellants
statement (testimony) as to MED'S.
FOR TREATMENT IN SERVICE.

Now, we go to PAGE 10,
FOURTH PARAGRAPH DOWN — stated — The
Record also contained the VETERAN'S
VA TREATMENT RECORDS. The
VETERAN'S SERVICE TREATMENT RECORDS
show that he was in a (CAR ACCIDENT)
in August 1966... This is CVE
VETERAN had NO CAR ACCIDENT, in the
MILITARY, and there is no document
that CAN support this statement
by the Board. SEE: PAGES - 132 & 133

Cont.
PAGE 3 (FOR #2)

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Cont. #2

ISSUE'S

Now, we turn to PAGE 11, paragraph two - "the Veteran wrote - Dr. C.B. wrote that she could "not see any current disc lesions (injuries) which would explain this abnormality" Dr. C.B. was explaining the finding in her examination. Dr. C.B. is an Orthopedic physician, specializing in skeletal deformities.

THESE REPORT'S ARE FOR - A REFERRAL VETERANS PRIMARY CARE PHYSICIAN = PCP

Now, in A REFERRAL A EXAMINING PHYSICIAN - EXAMINE - FIND, AND REPORT THE FULL FINDING TO PCP - FOR OTHER EXAM'S AND TREATMENTS

Now, these lead to MRT'S - which give a precise, and more accurate account of ANY deformities found.

cont.
PAGE 4 (FOR #2)

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Cont. #2
SEE: PAGES 335 THRU 354, MRI'S
FOR LOWER BACK should be considered
New & MATERIAL since the VA NEVER
GAVE APPELLANT A MRI, AND MRI
REFLECT directly to EVERY VERTEBRA
AND THE SPINAL CORD, PLUS
establishing NEW ELEMENTS NECESSARY
to support the claim.

CONTINUING
#2 - HEP-C
ISSUE

VETERAN MUST start with the
VERY High Risk FACTORS VETERAN WAS
EXPOSED TO, SEE: (RBA) PAGE 4108 - Jet gun
injection (VETERAN WAS INOCULATED
IN MARCH 1964). Now, SEE: PAGE 2372,
This is (Document) A COPY OF VETERANS
RECORD OF ASSIGNMENTS - NOTE - THE DATES
2 Aug. 64 THRU 30 April 65 - THESE DATES ARE

cont.

PAGE 5 (FOR #2)

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Cont. Hep-C, PAGE 12 (RBA)

Field Hospital - Duty - Old High Risk Factors. Now, SEE: PAGES 1401 -

1406, These findings are fairly recent, but more precise, plus, PAGE 1335,

VA's First Official Finding of Hep-C was in San Diego, CA

this was in Feb. 2000, Appellant did not receive any notice from

VA or any Public Health Department.

Now, Appellant must address "New & Material Evidence" ALL of the other evidence was earlier, SEE: PAGES 415 -

417, brings the evidence up to date.

The earlier count for the Hep-C virus was 6.27 Million, as of the report of PAGE (RBA) the count is 10 Million plus, and Hep-A is now present, this should stand as verification of New & Material Evidence.

Cont.

PAGE 6 (FOR #2)

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CONT. HEP-C, PAGE 12 (RBA)

Now, Veteran will start, "SERVICE
TREATMENT RECORDS WERE SILENT..."

Now, VA DR's have explained to
Veteran that, HEP-C is NOT A
RETROACTIVE DISEASE (it was explained
that the disease takes years to
develop), the risk factor has already
been explained. AND THE BOARD goes
ON TO CALL VETERANS DUTY ASSIGNMENT
A "THEORY" ON ITS OWN.

Now, NO TREATMENT IN SERVICE, PLUS,
BOARD DECLARING VETERAN'S TESTIMONY - AS
THEORY, VETERAN WAS ONLY REPEATING
WHAT VA DR'S HAS LEARNED - THE APPELLANT.

CONT.

ENTITLEMENT(S)

AND, ALL DENIAL'S, APPELLANT
BASED THAT THIS HONORABLE
COURT ACCEPT THESE FACTS (AS)
PRESENTED, AND REVERSE THIS

CONT.

PAGE 7 (FOR #2)

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Cont. #2 - Entitlement
ALL denials

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Decision After considering ALL of
the EVIDENCE AND TESTIMONY OF RECORD
FROM THE TIME OF THE VETERAN'S JEEP
INJURY AND THE FIRST CLAIM (DATE VA)
APPLICATION. SEE: PAGE 6561, oldest
DOCUMENT with VETERAN'S CLAIM NUMBER
AS RELATED TO CLAIM APPLICATION.

This Board's determination is NOT A
FINDING OF FACT - THEREFORE - "CLEARLY
ERRONEOUS" in which the EFFECTIVE DATE
FOR ANY AWARD OF BENEFITS SHOULD
BE THE EFFECTIVE DATE APPLICABLE TO
THE ORIGINAL CLAIM, WHEREBY, UNDER
THE AUTHORITY OF 38 U.S.C. 5110.

PRAYER

WHEREFORE, PETITIONER PRAY THAT THIS HONORABLE COURT
FIND THAT PETITIONER'S EVIDENCE OUTWEIGH THE BOARD
MISTAKES AND AWARD HIM AS THE COURT SEE FIT,
Respectfully Submitted,

DATED:
August 29, 2019

Oscar Johnson
OSCAR JOHNSON

OSCAR Johnson

19-2840

CERTIFICATE OF SERVICE

On AUG. 19th, 2019 a copy of the foregoing was mailed, postage prepaid to:

LAVINIA A. DERR

Appellate Attorney

Office of the General Counsel

Department of Veterans Affairs

810 Vermont Avenue, N.W.

Washington, DC 20420

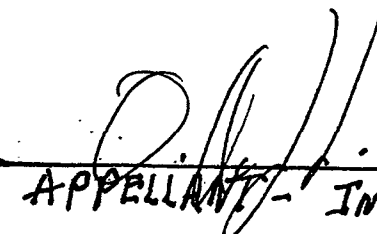
Lavinia.Derr@va.gov

(202) 632-6924

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

APPELLANT'S INFORMAL BRIEF
C.U.E. (s)

Along with a copy of
CONSTITUTIONAL
QUESTION



APPELLANT - IN PROSE

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

APPELLANT'S INFORMAL BRIEF

Docket No: 19-2840

Oscar Johnson,

v.

Robert L. Wilkie,
Secretary of Veterans Affairs,

PETITIONER /
Plaintiff

DEFENDANT /
Adjudicator.

CONSTITUTIONAL QUESTION

TO THE CORE, THE UNITED STATES CONSTITUTION;
Jurisdiction

38 U.S.C. 7252 : 38 U.S.C., 7261
MEMBERS OF CONGRESS, PLEDGE FIRST AND FOREMOST
TO UPHOLD THE CONSTITUTION. LEGISLATIVE BRANCH -
(CREATE THE LAWS), JUDICIAL BRANCH - (INTERPRET THE
LAWS), EXECUTIVE BRANCH - (ENFORCE THE LAWS).

QUESTION^(S)

1. DOES THE CONSTITUTION AUTHORIZE THE
LEGISLATIVE BRANCH TO RELINQUISH ITS

(cont.)

CONSTITUTIONAL QUESTION
CONT.

Assigned High duties to the EXECUTIVE
BRANCH? - By, statute's like these:
38 U.S. Code, 501; 38 U.S. Code, 511;
38 U.S. Code, 5108; 38 U.S. Code, 7104.

2. Does the Constitution Allow
AN Agency of the GOVERNMENT
to Adjudicate its-SELF (EXECUTIVE BRANCH) - [SECRETARY
OF VETERANS AFFAIRS], when a
claim is brought-forth against
it?; to MAKE the GOVERNING
LAWS, AND Hold and Control ALL
the EVIDENCE - IN QUESTION?

INTRODUCTORY STATEMENT

1. This Court has the distinction
OF INTERPRETING DUAL BRANCH LAWS.

CONSTITUTIONAL QUESTION
CONT.

2. FEDERAL COURTS - WERE designed to be AN INTERMEDIATE body between THE PEOPLE AND THEIR LEGISLATURE - in order TO ENSURE THAT THE people's REPRESENTATIVES ACT ONLY within THE Authority given TO CONGRESS UNDER THE Constitution.

3. The Constitution is the Nation's FUNDAMENTAL LAW. IT CODIFIES THE CORE VALUES OF THE PEOPLE. IF ANY LAW PASSED BY CONGRESS CONFLICTS WITH THE Constitution, - "the Constitution ought to be PREFERRED TO THE statute, THE intention OF THE PEOPLE TO THE intention OF THEIR AGENTS."

CONSTITUTIONAL QUESTION
CONT.

4. DUE PROCESS OF LAW is deemed
so important that, barring a
Constitutional Amendment, not
even a majority should be
allowed to change them.

ARGUMENT

VETERAN'S ARGUMENT is this -
ONCE A condition, disease,
injury, OR ANY ILLNESS is
Found - It is Established
(FACT) - [ACTUALITY], whether OR
NOT THE EXECUTIVE BRANCH (SEC/VET
BOARD) accepts it. THERE IS
"NO" way A FACT CAN BE

CONSTITUTIONAL QUESTION
CONT.

UNESTABLISHED. BUT, 38 C.F.R. 3.156; 38 USC, 5108, HAS
ACHIEVED BY LAW.
YET, WHEN THE VA GIVES ITS
DENIAL THEN THE ISSUE BECOMES
UNESTABLISHED - THIS IS THE SECRETARY'S
LAW. THEN THE LEGISLATIVE BRANCH
FOLLOW WITH 38 U.S.C., 5108 ITS
OWN JEOPARDY LAW - AGAINST THE
5TH AMENDMENT (DOUBLE JEOPARDY CLAUSE)

OUR Constitution WILL ALWAYS
AFFORD OUR RATIONALISM.

CLOSING

AS THE APPLICABILITY OF THESE LAWS -
THEY DO NOT APPLY TO THE NATION'S
FUNDAMENTAL LAW.

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CONSTITUTIONAL QUESTION
CONT.

The Military is not only a
Veterans Duty - But a Duty to
ALL of us that support the
Constitution of the United States -
it gives feeling of worth and
Equity, - AND TO BE ABANDONED by
the HONOR - that we took -
AN OATH to DEFEND - is the most
High injustice.

THESE CONSTITUTIONAL QUESTIONS ARE NOT
ONLY FOR PETITIONER - BUT FOR ALL OF US THAT
HAVE BLAVED THE WATERS.

PRAYER

WHEREFORE, PETITIONER PRAY THAT THIS HONORABLE
COURT FIND THAT THE CONSTITUTION IS BEING VIOLATED
AND LEAD TO THE SUCCESS OF THESE CRIMES
AGAINST THE CONSTITUTION.

DATED: AUG. 29th, 2019

PAGE-6

Respectfully Submitted.
Oscar Johnson
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