

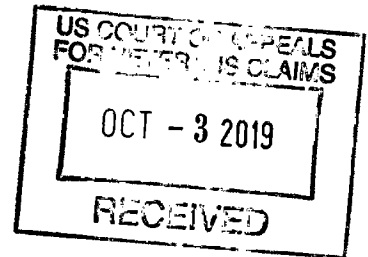
ORIGINAL

Docket No: 19-1975

Lenzy Lofton, Appellant

v.

Robert L. Wilkie  
Secretary of Veterans Affairs, Appellee



Appellant's Informal Brief

*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 that 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.***

***My appeal was as follows:***

***Service connection for Sleep Apnea (secondary to Insomnia/Depression***

***- Record Before The Agency (R.) 328 & 487***

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

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

Yes X 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.*

***The BVA made finding as follows:***

***While the Board recognizes the Veteran's lay assertions that his currently***

***diagnosed obstructive sleep apnea was caused or aggravated by his....(R.) 7***

***SEE ATTACHMENT FOR #2***

3. Are there any documents in the Record Before the Agency (RBA) that support your claims?

Yes \_\_\_\_ No X

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 Attachment for #2**

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 X

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 X No \_\_\_\_

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

***38 U.S.C. § 5107(b) & 38 C.F.R. 3.303 should have been applied I was entitled to the benefit of the doubt. I was entitled to have my claim decided on "all" the evidence.***

6. Do you think that the Board decision is wrong for any other reason(s)?

Yes X No     

If yes, what are those reasons(s)? Please list the page number(s) from the Board Before the Agency (RBA) that support your argument.

**See Argument at 487.**

*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?

***Grant service connection for Sleep Apnea secondary to Mental Disorder.***

8. If you needed extra pages to answer the questions above, how many extra pages did you attach to this form?   2

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

**On any attached pages, make sure to include your name and your Court docket Number, which is listed at the top of each page of this form.**

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

Date:   9 - 30 - 2019  

Appellant's Signature   Lenzy Lofton

## ATTACHMENT #2

LENZY LOFTON

DOCKET NO: 19-1975

service-connected persistent insomnia disorder, the Board finds that he is not competent to (R.) 7 to provide such a medically complex etiological opinion. (R.) 8.

*The BVA disregarded the medical evidence (R.) 483.*

### Luck of the Draw

*If I had been lucky and got a difference Veteran Law Judge, my claim may have Been granted. See below:*

*Citation Nr: 1404457*

*Decision date: 01/31/14 Archive Date: 02/10/14*

*DOCKET NO. 13-02 800*

*The Board notes that the VA examiners and private LPA have provided conflicting opinions as to whether the Veteran has established a diagnosis for PTSD. However, as these opinions were provided by competent mental health professionals using the DSM-IV criteria, and the Board cannot find a basis for which one opinion is more probative than the other, the Board finds that when resolving all reasonable doubt in favor of the Veteran, the Veteran has established a current diagnosis of PTSD.....*

### Order

*Entitlement to service connection for PTSD is granted.*

## **ATTACHMENT #2 CONT'D**

**LENZY LOFTON**

**DOCKET NO: 19-1975**

*See Also*

### **THE VA EXAMINER VS VETERANS TREATING PHYSICIAN**

**BVA DOCKET NO. 13-02 800 (Citation Nr: 1404457) sets forth that:**

**"The Board cannot find a basis for which one opinion is more probative than the other, [therefore] the Board finds all reasonable doubt in favor of the Veteran"**

**The VA examiner's opinion, according to the Board, is not due greater weight than that of the treating doctor.**

**In BVA DECISION DOCKET NO. 19-16 959, dated August 29, 2019, the Veteran draw a good VLT. His claim for service connection for Sleep Apnea was granted secondary to PTSD.**

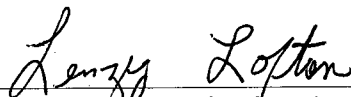
**In BVA DECISION DOCKET NO. 08-17 407 dated April 12, 2013, the Veteran also draw a good VLJ. His claim for service connection for Sleep Apnea was granted secondary to PTSD.**

**There are many many cases like this, you just have to be "Lucky" to get a good VLJ.**

## CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the United States of America that on September 30, 2019, a copy of this Informal Brief was mailed, postage prepaid to:

**JACQUELINE KERIN**  
Appellate Attorney  
Office of the General Counsel (027F)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
(202) 632-5994

A handwritten signature in cursive script, reading "Lenzy Lofton", written over a horizontal line.

Appellant's signature

Mr. Lenzy Lofton  
204 Sourwood Rd.  
Goldsboro, NC 27534

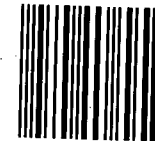


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FOR VETERANS CLAIMS

Oct. 3, 2019

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