

APR 20 2020

RECEIVED

IN THE UNITED STATES COURT OF APPEALS  
FOR VETERANS CLAIMS

VET. APP. NO. 20-0810

SAMMIE LEE BROWN,  
APPELLANT PRO SE,

v.

ROBERT L. WILKIE  
Secretary of Veterans Affairs,  
APPELEE.

APPELLANT MOTION TO QUASH APPELEE'S MOTION TO DISMISS /  
MOTION FOR IN-CAMERA INSPECTION OF VA Claim Folder  
NO. 256216855, BROWN, SAMMY

Pursuant to U.S. Vet. App. R. 41(a), 5(a)(3), and 27, the Appellant moves the COURT to Quash Appellee's MOTION to dismiss and conduct a IN-camera inspection of Appellant Claim Folder in this case to preserve and protect Appellant's due process and Equal protection Constitutional rights to access to the COURTS.

This motion is made in the interest of Life, Liberty and of judicial efficiency. A IN-camera inspection of Appellant VA Claim Folder is sought to conserve judicial resources and make a Independent judgement to the merits of this case. Appellant has provided consent with the General Counsel to provide the COURT with all information contained within Appellant Claims Folder NO. 256216855 BROWN, SAMMY. Appellant is proceeding pro se in this matter.

Basis for APPELLANT MOTION TO QUASH MOTION TO DISMISS and for the COURT TO Conduct a IN-CAMERA INSPECTION OF APPELLANT'S VA Claims Folder.

The General Counsel with all respect, did not provide the COURT of an accurate Assessment of APPELLANT Claim Folder. Appellant pursuant to Court the Court order dated April 1, 2020 and U.S. Vet. App. Rules and procedures request permission to Submit various correspondances from the Department of Veterans Affairs (VA) and Board of Veteran Appeals (BVA) that will substantiate that the General Counsel has in it care and custody a BVA Final decision identifiable to Appellant VA File Number 256216855. (1.) Correspondance dated September 25, 2019 from Dept. Veterans Affairs; (2.) Correspondance from Board of Veterans Appeals; (3.) Two correspondances from Department of Veterans Affairs

Medical Private records retrieval center dated 09/18/2019 and 10/04/2019.

The correspondence represents Appellant requesting the BVA to reconsider their prior decision. The Department of Veterans Affairs with all due respect is plagued by inadequacies in performance in various regional offices, the evidence submitted will substantiate the General Counsel knowledge that there is in fact a BVA Final decision, but after General Counsel review of Appellant claim folder the General Counsel became aware that the VA regional offices violated the veteran claim assistance act of 2000 and the implementation regulations that imposes obligations on the VA to provide claimant's with notice and assistance. 38 U.S.C.A. 5102; 5103; 5103(a); 5107 (West 2014); 38 C.F.R. 3.102; 3.156(a); 3.159; 3.326(a) (2014). The VA Failed to provide Appellant with proper VCAA Notice to inform the Appellant of any information and evidence not of record (1) that was necessary to substantiate his claims (2) what the VA sought to provide and (3) what the Appellant was expected to provide. 38 U.S.C.A. 5103(a); 38 C.F.R. 3.159 (b) (1) before the initial unfavorable decision on the claim(s) for benefits. *Petrigrini v. Principi*, 18 Vet. App. 12 (2004) as required by 38 U.S.C.A. 5103(a). Appellant request to submit correspondence from the General Counsel dated February 21, 2020, upon which Appellant consented with providing the COURT his information contained within VA claim folder 256216855. After a *in-camera* inspection the COURT will find (1) A BVA Final decision related to VA claim file number 256216855 Brown, Sammy Appellant in the case above, (2) The BVA was not consistent with the decision in *BRYANT*, All reasonable efforts have not been undertaken by the VA in the development of Appellant claim(s) as required in the fulfilling their duty to assist obligation. *Smith v. Lober*, 14 Vet. App. 277 (2000), 281 F.3d 1384 (Fed Cir. 2002).

The Secretary moved the Court to dismiss this Appeal reasoning due to lack of jurisdiction due to a clerical error in the date of the Appeal pursuant to the Final order decision was made, All Federal Court have the power to issue all writs necessary to ensure substantive justice 28 U.S.C. 1651(a).

The United States Supreme Court states during a jurisdictional determination "that the Appellate Court may reach the merits of the appeal to determine

it jurisdiction to hear the Appeal because a Federal Court always has jurisdictional power to determine its own jurisdiction. U.S.V. RUTZ, 536 U.S. 622 (2002); U.S. V. United Mineworkers 330 U.S. 258 (1947). In the interest of justice Appellant pursuant to Fed. Appellate Rules and Procedures 3(c)(1), Appellant appeal must not be dismissed for informality of form or title of Notice of Appeal. Appellant document can qualify as a "functional equivalent" on a Notice of Appeal required by rule 3 of the Federal rules of Appellate procedure only for the issues the Appellant intends to appeal. Appellant pro se Notice of Appeal is a functional equivalent of Notice because it was filed within the statutory time limit of 120 day of judgement being appealed after the date the BVA decision was mailed, there is a VA Filed number 256216855 and Appellant Name Brown, Sammy is Identified in the Notice of Appeal. 38 U.S.C. 7266(a), to also concluded conveyed intent to Appeal reference order being Appealed. Witasick V. Minnesota Mutual Life Ins. Co. 803 F.3d 184, 190 (3<sup>rd</sup> Cir. 2015). The government did not challenge the timeliness of Notice of Appeal Filing Appellate jurisdiction is not barred. U.S. V. Frias, 521 F.3d 229 (2<sup>nd</sup> Cir 2008), The Notice of Appeal was pursued in a timely manner Rule 4(a) of the Federal rules of appellate procedure requires by law that a Appellant file Notice of Appeal within the statutory time limit, 38 U.S.C. 7266(a), of order was mailed (see motion to dismiss) and thus gives discretion to the Court Appellate jurisdiction since the General Counsel does not challenge the timeliness of Appeal, Appellant appeal must be considered filed within the statutory time limit After the date the BVA decision was mailed. Appellant moves to Submit Correspondance from Attorney Sean A. Ravin, Coral Gables, Florida dated February 17, 2020, requesting to represent Appellant on appeal to the Court, requesting Appellant send a copy of the Board decision to be review, the Court order Appellant to provide a copy of that decision by the BVA, At time this moment Appellant is unable to Comply with that order because all pertinent information was mailed to Mr. Ravin before receipt of the Court order and since have not be able to make contact to retrieve All pertinent information mailed

The COURT must consider that the General Counsel argument is not disputing that the NOA was untimely filed, only statutory limits for the filing of a Notice of Appeal are a jurisdictional requirement in which Court cannot equitable toll Bowie v. Russell 1275.Ct. 2360 (2007), 38 USC 7266(b) concerns within this law referred only for a claimant to obtain review of a BVA decision by this COURT, the decision must be final and the person adversely affected by that decision was mailed within the 120 day after the date. As shown in the correspondence from the Department of Veterans Affairs and BVA, the BVA was reconsidering a final decision made prior on a VA regional office decision.

Accordingly there was a BVA final decision that correspond to VA File Number 256216855 and Sammie Lee Brown, the name identified in the NOA for the COURT to review. The General Counsel argument conflicts with 38 U.S.C. 7266(a) A controlling precedent by established law should be considered overruled, 38 U.S.C. 7266(a). Appellant has establish jurisdiction. Hampton v. Nicholson, 20 Vet. App. 459, 460 (2006). Appellant's prose in this appeal and should not be held to the high standard as a Attorney, the appeal is not made to harass, but in the interest of Justice and liberty from a veteran whose voice is being silence unfairly by the Department of Veterans Affairs. Appellant seeks only an opportunity to be heard.

Under the penalty of perjury Appellant swears the above is true and correct to the best of his knowledge, Appellant prays that his prayer be heard on this 10<sup>th</sup> day of April 2020. Respectfully Submitted,

Sammie Lee Brown  
SAMMIE LEE BROWN Appellant Pro Se.

#### Certificate of Service

A copy of this motion was place in the U.S. Mail with proper postage affixed on this 10<sup>th</sup> day of April 2020 and mail to the following:

Office of General Counsel (027) DEPT OF VA

William A Hudson JR Acting General Counsel

810 Vermont Ave. N.W.

Washington D.C. 20420

IN THE UNITED STATES COURT OF APPEALS  
FOR VETERANS CLAIMS

VET. APP. NO. 20-0810

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APPELLANT PRO SE,

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it jurisdiction to hear the Appeal because a Federal Court always has jurisdictional power to determine its own jurisdiction. U.S.V. BUTZ, 536 U.S. 622 (2002); U.S. V. United Mineworkers 330 U.S. 258 (1947). In the interest of justice Appellant pursuant to Fed. Appellate Rules and Procedures 3(c)(1), Appellant appeal must not be dismissed for informality of form or title of Notice of Appeal. Appellant document can qualify as a "functional equivalent" on a Notice of Appeal required by rule 3 of the Federal rules of Appellate procedure only for the issues the Appellant intends to appeal. Appellant pro se Notice of Appeal is a functional equivalent of Notice because it was filed within the statutory time limit of 120 day of judgement being appealed after the date the BVA decision was mailed, there is a VA Filed number 256216855 and Appellant Name Brown, Sammy is Identified in the Notice of Appeal. 38 U.S.C. 7266(a), to also concluded conveyed intent to Appeal reference order being Appealed. Witasick V. Minnesota Mutual Life Ins. Co., 803 F.3d 184, 190 (3<sup>rd</sup> Cir. 2015). The government did not challenge the timeliness of Notice of Appeal Filing Appellate jurisdiction is not barred. U.S. V. Frias, 521 F.3d 229 (2<sup>nd</sup> Cir 2008), The Notice of Appeal was pursued in a timely manner Rule 4(b) of the Federal rules of appellate procedure requires by law that a Appellant file Notice of Appeal within the statutory time limit 38 U.S.C. 7266(a) of order was mailed (see motion to dismiss) and thus gives discretion to the Court Appellate jurisdiction since the General Counsel does not challenge the timeliness of Appeal, Appellant appeal must be considered filed within the statutory time limit After the date the BVA decision was mailed. Appellant moves to Submit Correspondance from Attorney Sean A. Ravin, Coral Gables, Florida dated February 17, 2020, / requesting to represent Appellant on appeal to the Court, requesting Appellant send a copy of the Board decision to be review, the Court order Appellant to provide a copy of that decision by the BVA, At time this moment Appellant is unable to Comply with that order because all pertinent information was mailed to Mr. Ravin before receipt of the Court order and since have not be able to make contact to retrieve all pertinent information mailed

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Sammie Lee Brown  
SAMMIE LEE BROWN Appellant Pro Se.

#### Certificate of Service

A copy of this motion was placed in the U.S. Mail with proper postage affixed on this 10<sup>th</sup> day of April 2020 and mail to the following:

Office of General Counsel (027) Dept of VA  
William A. Hudson Jr. Acting General Counsel  
810 Vermont Ave. N.W.  
Washington D.C. 20420

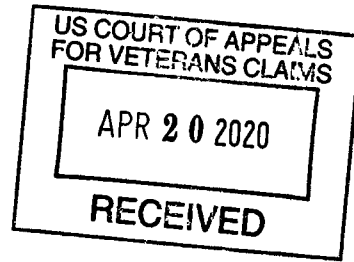




DEPARTMENT OF VETERANS AFFAIRS

September 25, 2019

SAMMY BROWN  
456727 J-1-1  
RUTELEDGE STATE PRIS  
7175 MANOR RD  
COLUMBUS, GA 31907



In reply, refer to:  
316/IPC/RSD  
File Number: 256216855  
SAMMY BROWN

Dear Mr. BROWN:

We received mail indicating that you would like us to review a claim that we previously adjudicated. VA regulations require you to file this request on the proper form.

### What Should You Do?

To begin processing your request, you must review the table below regarding the proper form to use. Then, complete, sign, and return that form to us.

We will take no further **action** until we receive your completed form. To locate these forms, go to the website [www.va.gov/vaforms](http://www.va.gov/vaforms), or call us at 1-800-827-1000.

### Which Form Should You Use?

VA recently changed its review process based on the Veterans Appeals Improvement and Modernization Act of 2017 (Public Law 115-55). You may choose to have your prior claim reviewed as a Higher Level Review, Supplemental Claim, or Board Appeal. Use the chart below to decide which review lane best fits you.

Your Situation	Form to use
VA notified you of the decision on or after February 19, 2019, and you have no new evidence to submit for VA to consider.	VA Form 20-0996, <i>Decision Review Request: Higher-Level Review</i>
VA notified you of the decision on or after February 19, 2019, and you have new and relevant evidence to submit for VA to consider.	VA Form 20-0995, <i>Decision Review Request: Supplemental Claim</i>

<b>Your Situation</b>	<b>Form to use</b>
VA notified you of the decision on or after February 19, 2019, and you want to have the decision reviewed by the Board of Veterans' Appeals.	VA Form 10182, <i>Decision Review Request: Board Appeal (Notice of Disagreement)</i>
VA notified you of the decision prior to February 19, 2019, but within the past year, and you have new and relevant evidence to submit for VA to consider.	VA Form 20-0995, <i>Decision Review Request: Supplemental Claim</i>  <b>Note:</b> See your prior decision notice for information about additional options for further review of the prior decision.
VA notified you of the previous decision more than one year ago, and you have new and relevant evidence to submit for VA to consider.	VA Form 20-0995, <i>Decision Review Request: Supplemental Claim</i>

### **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.

<b>If you</b>	<b>Here is what to do.</b>
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 <a href="https://iris.custhelp.va.gov">https://iris.custhelp.va.gov</a> .
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 Written Correspondence</i> .

In all cases, be sure to refer to your VA file number, 256216855.

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



DEPARTMENT OF VETERANS AFFAIRS  
Board of Veterans' Appeals  
Washington DC

In Reply Refer To: 014CREB  
256216855

Sammy Lee Brown  
456727 J-1-1-1 Ruteledge State Pris  
7175 Manor RD  
Columbus, GA 31907

Dear :Sammy Lee Brown

The Board of Veterans' Appeals received your Board Appeal request. However, we need more information from you before we can process your request.

[If no issues were specified] Your request didn't identify which issues you want to appeal. In order to process your request, you need to submit another form that lists the issues you want a Veterans Law Judge to review.

[If Veteran did not select a review option] The Board offers 3 appeal options: Direct Review, Evidence Submission, or Hearing Request. In order to process your request, you must submit another form and tell us which Board Appeal option you'd like to choose for each issue. If you want to choose the same option for all issues, you only need to select the option once.

### What do I need to do next?

- **Step 1:** Complete **VA Form 10182: Decision Review Request: Board Appeal**, available at [va.gov/decision-reviews/board-appeal/](http://va.gov/decision-reviews/board-appeal/). Identify the issues you want to appeal and choose a review option for each issue.
- **Step 2:** Submit the form within **60 days of the date on this letter or 1 year from the date on your decision letter**. Submit the form by mail or fax to:

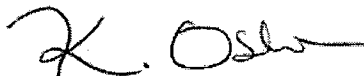
Board of Veterans' Appeals  
P.O. Box 27063  
Washington, DC 20038  
Fax: 1-844-678-8979

The Board can't review your appeal until we receive your new Board Appeal (VA Form 10182). If you don't submit a new form, your previous form won't be processed and the Board can't review your appeal.

### What if I have questions?

If you have questions or would like more information, please contact your representative (if you have one) or visit [va.gov/decision-reviews/get-help](http://va.gov/decision-reviews/get-help). More information on the 3 Board Appeal options is available at [va.gov/decision-reviews](http://va.gov/decision-reviews).

Sincerely,

A handwritten signature in black ink, appearing to read "K. Osborne", with a long horizontal flourish extending to the right.

Kimberly Osborne  
Deputy Vice Chairman  
Board of Veterans' Appeals



**DEPARTMENT OF VETERANS AFFAIRS**  
Private Medical Records Retrieval Center  
PO Box 8890  
Virginia Beach, VA 23450

09/18/2019

Sammy Brown RSP# 456727J4  
7175 Manor Rd  
Columbus, GA 31097

In reply, refer to: PMR/316  
File Number: 256216855  
Brown, Sammy

Dear Mr. Brown:

You reported that medical treatment records are relevant to your claim. You also completed a release form authorizing the Department of Veterans Affairs (VA) to ask for those records on your behalf. We have requested copies of your private medical records from:

- Rutledge State Prison Mental Health Dept

Even though we have asked for this information, it is your responsibility to see that VA receives it (except for any evidence kept by the VA, military, or other federal government agency).

**How Soon Should You Send What We Need?**

We strongly encourage you to send any information or evidence as soon as you can. If we do not hear from you, we may make a decision on your claim after **30** days.

Please only send medical records for the provider(s) listed above to the Private Medical Record Retrieval Center. You can also fax medical records to 1-844-632-5093.

**How Can You Contact Us?**

If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov>. Otherwise, you can contact us in several ways. Please give us your VA file number when you contact us.

- Call us at 1-800-827-1000, VA National Call Center
- If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711 (International number is 1-800-829-4833)
- Call us at 1-412-395-6272, Foreign Veterans Call Center

Sincerely yours,

Compensation Service Director



**DEPARTMENT OF VETERANS AFFAIRS**  
Private Medical Records Retrieval Center  
PO Box 8890  
Virginia Beach, VA 23450

10/04/2019

Sammy Brown RSP# 456727J4  
7175 Manor Rd  
Columbus, GA 31097

In reply, refer to: PMR/316  
File Number: 256216855  
Brown, Sammy

Dear Mr. Brown:

On 09/18/2019, we asked the provider(s) below to send us private medical records that you told us were relevant to your claim. As we advised you in a letter of the same date, we processed the medical record request(s) on your behalf.

- Rutledge State Prison Mental Health Dept

As of the date of this letter, we have not received a response from the aforementioned provider(s). We are making an additional attempt to obtain these records. Even though we have asked for this information, it is your responsibility to see that VA receives it (except for any evidence kept by the VA, military, or other federal government agency).

**How Soon Should You Send What We Need?**

We strongly encourage you to send any information or evidence as soon as you can. If we do not hear from you, we may make a decision on your claim after **15** days.

Please only send medical records for the provider(s) listed above to the Private Medical Record Retrieval Center. You can also fax medical records to 1-844-632-5093.

**How Can You Contact Us?**

If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov>. Otherwise, you can contact us in several ways. Please give us your VA file number when you contact us.

- Call us at 1-800-827-1000, VA National Call Center
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Sincerely yours,

Compensation Service Director



Department of Veterans Affairs  
Office of General Counsel  
Washington, DC. 20420

February 21, 2020

In reply refer to: (027)  
Brown, Sammie

Sammie Brown  
GDC #456727 RUTLEDGE STATE PRISON  
7175 MANOR ROAD  
COLUMBUS, , GA. 31907-

Re: Sammie Brown  
Robert L. Wilkie  
Secretary of Veterans Affairs  
CVA Docket No. 20-0810

Dear Sir/Madam:

This letter is prompted by the Notice of Appeal filed in this case. The U.S. Court of Appeals for Veterans Claims is an independent court and is not a part of the Department of Veterans Affairs (VA). The VA General Counsel, attorneys, and paralegals in the General Counsel's office represent the Secretary of Veterans Affairs and cannot represent you or your interests before the Court. While we may have to contact you from time to time in accordance with the Court's rules, we are unable to provide you with legal advice. You may wish to contact an attorney or veteran's service organization representative for assistance with your case.

Due to Federal law governing privacy and the confidentiality of records in the custody of the Department of Veterans Affairs, we may be unable to furnish the Court with information in our records that is pertinent to this appeal unless you provide signed consent to the disclosure of the information. See *In re a Motion for a Standing Order*, 1 Vet.App. 555 (1990). Therefore, we ask that the proper signature be provided on the enclosed consent form.

The Secretary of Veterans Affairs will provide you with a Record Before the Agency (RBA), which is a copy of all materials that were contained in the claims file on the date of the Board decision you are appealing, as well as any other material from the record before the Secretary at the time of the Board's decision. You must indicate on the enclosed form whether you would like a CD of the RBA or a paper copy of the RBA.

The completed and signed form should be mailed, emailed or faxed to:

<u>Mailing Address</u>	<u>Email Address</u>	<u>Fax Number</u>
Office of the General Counsel (027) Department of Veterans Affairs 810 Vermont Avenue, NW Washington, DC 20420	OGCPSGVIIConsent@va.gov	1-202-495-5022

Please keep a copy of the consent form for your own files. Failure to properly complete this consent form may result in delays in processing your appeal.

Thank you for your attention to this matter.

Sincerely,

Chris Gren  
Administrative Officer  
Enclosure (1) Consent Form

Admitted  
New York Bar  
District of Columbia Bar

SEAN A. RAVIN, Esq.

1550 MADRUGA AVENUE, SUITE 414 • CORAL GABLES • FLORIDA 33146

EMAIL: info@seanravin.com

PHONE/FAX: (202) 607-5731

District of Columbia Court of Appeals  
New York State Supreme Court  
U.S. District Court for the District of Columbia  
U.S. Court of Appeals for Veterans Claims  
U.S. Court of Appeals for the Federal Circuit  
U.S. Court of Appeals for the Fourth Circuit

ATTORNEY-CLIENT PRIVILEGED  
PERSONAL AND CONFIDENTIAL

February 17, 2020

Sammie Brown  
GDC#456727  
Rutledge State Prison  
7175 Manor Road  
Columbus, GA 31907

Re: Please Send Me a Copy of Your Board Decision

Dear Sammie,

Thank you for responding to my offer to review your Court appeal.

I've been fighting for veterans and their widows for over 20 years. It's all that I do, and I've won over 900 appeals and collected millions of dollars for my clients.

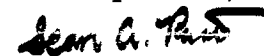
I want to fight for you too, but first I need your help.

In order for me to determine if I can represent you before the Court, I need you to send me a copy of the Board decision that you are currently appealing to the Court. Until I've reviewed a copy of your Board decision, I cannot offer to represent you.

We can accept a copy of your Board decision through email, fax, or mail. Email and fax are the fastest options and will expedite the review process. If you, however, cannot or are unwilling to send a copy of your Board decision to us, please call my office at (202) 607-5731 so that we can discuss your specific situation.

I look forward to reviewing your Board decision.

Sincerely Yours,



Sean A. Ravin, Esq.

SAR/jmr



Sammie Lee Brown  
BDC 456727  
Rutledge State Prison  
7175 Manor Road  
Columbus, GA 31907

20004-295099  
2000432950

United States Court of Appeal  
for Veterans Claims

625 Indiana Avenue, N.W. Suite 900

Washington, D.C. 20004-2950

NON-MACHINABLE SURCHARGE

USA

USA



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