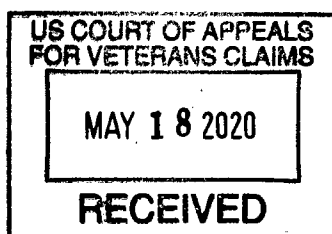


IN THE UNITED STATES COURT OF APPEALS FOR
VETERANS' CLAIMS

TERRY G. WATSON,
PETITIONER,



VS.

CAUSE NO. 20-1898

ROBERT L. WILKIE,
SECRETARY VETERANS'
AFFAIRS,
RESPONDENT,

PETITIONER'S RESPONSE

COMES NOW, Terry G. Watson, pro-se, Petitioner in the above-entitled action with a response to the Secretary's May 5, 2020 response.

Pursuant to 28 USC § 1746, the following facts are given under the penalty for perjury as true and correct.

1. The letter the Secretary's "Exhibit 2" was not received by Petitioner, nor were any forms received from the Secretary.
2. The Secretary's agents, did not develop the evidence or solicit further evidence from Petitioner before denying the claims.
3. The letter sent with the original petition in mandamus, was the only " Notice" received from the Secretary, notice the address on at Exhibit 2 ¶¶ 1. This is Petitioner's home address, where he is residing in prison in Bowling Green, Missouri.
4. Petitioner received the VA Form 20-0996 from another veteran in NECC. It had no instructions, notice the form in Exhibit 3 at ¶¶ 1,2, does not reflect the fact that if the VA chooses to not

properly develop the claim pursuant to 38 USC § 5103A, and render's a decision without evidence, that the claimant will not be allowed to present said evidence.

STATEMENT OF THE CASE

The Secretary's position can be summed in this manner. He can deny proper notice of an adverse decision, after failing to properly develop the claim, then refuse to accept evidence central to the claims, because the claimant was not informed of his rights by proper notice and a chance to be heard, violating the U.S. Constitution Amendment's 1 and 5.

In an adversarial proceeding, unlike the VA's administrative process, due notice is required of any judgment. Rule 4(e), Fed.R. Civ. P. describes how service is to be effected in this situation. Here Petitioner argues the Secretary has an extraordinary duty to provide notice to claimant's, especially those that are incarcerated.

MEMORANDUM OF LAW IN SUPPORT

THIS COURT HAS LONG HELD THAT, the duty to assist extends to incarcerated veteran's under the Veterans' Claims Assistance Act (VCAA) 38 USC § 5103A; See Woods V. Derwinski, 1 Vet.App.190(1991); Bolton V. Brown, 8 Vet. App. 185(1995); Belton v. West, 13 Vet.App. 200(1999). A claim of Constitutional magnitude as in the instant case, is appropriate for this Court to consider in aid of its jurisdiction. See Ramsey v. Nicholson, 20 Vet.App. 16,21(2006); Cox v. West, 149 F.3d 1360(Fed.Cir.1998).

The Secretary has not met his obligations to the incarcerated veteran's nor this claimant. Constantly, the Secretary's agent's take an adversarial position against incarcerated veterans. The Secretary has failed to remedy this situation time after time,

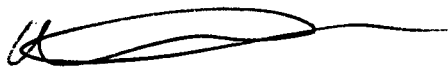
for the last eight(8) years Petitioner has been incarcerated. The Court need only look at its own records of the numerous times Petitioner has had to come to this Court for assistance, because the Secretary's agent's refused to follow their Constitutional and statutorially prescribed duty's. This invokes the case-or controversy jurisdictional requirement imposed by Article III, see Aronson v. Brown, 7 Vet.App. 153, 155(1994).

This is a pattern of behavior, that has not been remedied by the Secretary. The writ of mandamus is an extraordinary writ, invoked only to correct clear defiance of duty by a government agent. Petitioner argues this action in the instance case, meets the or exceeds the requirement of Cheney v. U.S. Dist. Court, 542 U.S. 367, 380-81(2004). Particularly in essence of the failure of the Secretary to provide notice and properly develop the claim before rendering a decision. The Secretary in his response argues, the Court should ignore these obvious denials of due process, because the Secretary has stated he will review the flawed decision without accepting evidence or developing the evidence as required under Section 5103A. This is a blatant conflict between the secretary's interpretation of his duty to assist under the Veterans' Appeals Improvement and Modernization Act. In evidence of the Secretary's agent's continued malfeasance, Exhibit 2 at ¶¶ 1, III b, states a notification letter was sent to Petitioner with the forms for an appeal. This statement is obviously a false narrative as Petitioner resides in Bowling Green, Missouri, where the letter of denial was sent to Hartshorn, Missouri Petitioner's family farm.

Last, Petitioner is well aware that the writ of mandamus is not an appellate review, only a means to compel non-compliant

government official to perform a statutory duty. The Secretary is misrepresenting the intent of Petitioner's petition in his response. Petitioner has a right to be heard before a competent triabunal in a fair and impartial proceeding. The Secretary has failed grossley to meet this obligation and therefore the writ should issue on this premise. Ordering the secretary to accept evidence from the Petitioner, properly develop the evidence, and undertake a comprehensive review of his process's to assist incarcerated veteran's in the claims process.

Respectfully Submitted,



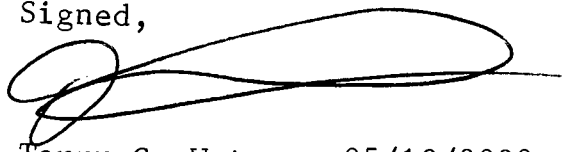
Terry G. Watson 05/13/2020

CERTIFICATE OF SERVICE

i hereby certify that on 05/13/2020, the original was placed in the institutional mail box and first class postage paid to the U.S. Court of Appeals for Veterna's Claim, 625 Indiana Avenue, N.W. SUite 900 Washington, D.C. 20004-2950.

Pursuant to 28 USC § 1746, all statements contained in the foregoing are true and correct under the peanlty for perjury.

Signed,



Terry G. Watson 05/13/2020

TERRY G. WATSON 1237000
8B-124 VETERAN'S WING
NORTHEAST CORRECTIONAL CENTER
13698 AIRPORT ROAD
BOWLING GREEN, MO 63334

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17 MAY 2020 PM 7 L



UNITED STATES COURT OF APPEALS FOR
VETERANS' CLAIMS
625 INDIANA AVENUE, N.W., SUITE 900
WASHINGTON, D.C. 20004-2950

ATTN: CLERK OF THE COURT
CAUSE NO. 20-1898

LEGAL MAIL 05/13/2020

20004-295099

