

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
625 Indiana Avenue, NW, Suite 900
Washington, D.C. 20004-2950
Phone: (202) 501-5970 Fax: (202) 501-5848

| | | |
|--------------------------|---|--------------------------|
| ANDREW U. D. STRAW, |) | Fed. Cir.#: _____ |
| <i>Plaintiff,</i> |) | U.S. CAVC Case#: 18-7129 |
| v. |) | <u>Hon. Greenberg</u> |
| ROBERT WILKIE, SECRETARY |) | <u>Hon. Toth</u> |
| OF VETERANS AFFAIRS, |) | <u>Hon. Falvey</u> |
| <i>Defendants.</i> |) | Presiding Judges |

NOTICE OF APPEAL

I, *plaintiff* Andrew U. D. Straw, proceeding *pro se*, having received notice of the dismissal of my appeal, now make the following **NOTICE OF APPEAL** to the U.S. Court of Appeals for the Federal Circuit:

1. NOTICE IS HEREBY GIVEN that plaintiff, Andrew U. D. Straw, appeals to the United States Court of Appeals for the Federal Circuit from the **OPINION** by the Honorable Judges Greenberg, Toth, and Falvey entered on **June 26, 2020** and all prior interlocutory rulings.
2. A variety of motions from me were denied and/or made moot by the decision to grant dismissal due to the legal conclusion that I cannot have this health coverage because I did not “live on the base.”

3. Further, the opinion lamented that I filed other documents during the course of the **18 months** I waited for a decision. However, I have a right to file whatever statements I want under the First Amendment and considering the enormous amount of pain and suffering inflicted on me by the United States with this poisoning, which pays the salary of these judges. No wonder I cannot get justice against the judges' employer. The reason the judges did not like my extra filings was simply that it was going to deny me justice and facts like mine be damned. Facts like my mother **dying from one of the listed cancers** and this Court could not even bring itself to mention that fact in its opinion, which should have made my relief mandatory. Once the panel, 2/3 Republican Trump appointments, decided to not give me relief, it denied ALL RELIEF.
4. I timely filed this U.S. CAVC appeal on **December 15, 2018** after dismissal of my claim at the BVA on **December 4, 2018**. I was allowed *in forma pauperis* hardship status.
5. Now, the panel has with clear errors of law construed the statute not to allow someone **born and poisoned at the base** to be covered by this health insurance even when my mother died from one of the

listed cancers. Further, to say nonsensical residence requirements are allowed is to say that a car accident victim has to reside in the road where the accident happened. Because **this statute must be construed liberally**, excluding me violates the Fifth Amendment and simply perpetuates the damage from the poisoning that was inflicted on me by Congress and its Marine Corps. *Tcherepnin v. Knight*, 389 U.S. 332, 336 (1967) This is the foxes guarding the henhouse and the judges on my panel here did not even fairly consider that someone poisoned and disabled has a ***constitutional right*** to this benefit and once Congress provided it, it must be granted to ALL CHILDREN WHO WERE POISONED, regardless of where they slept. The panel members have extensive experience with the military and should recuse *sua sponte* for their bias, but they did not. Their callousness and compassionless failure to provide justice motivates this appeal.

6. I am seeking counsel and have contacted several law firms, but I wish to lodge my appeal to ensure it is done. I will likely seek more time to provide a brief so that my firm, if I can obtain one, will have time to write my brief.

7. This appeal is made in good faith and *in forma pauperis* based on the original *in forma pauperis* hardship grant.

8. Finally, I ask to proceed using the original record at BVA and VA as well as U.S. CAVC as the appeal record under FRAP Rule 24(c).

I, *affiant* and *plaintiff-appellant* Andrew U. D. Straw, certify that the above statements are true and correct under penalty of perjury. **Dated: June 27, 2020**

Respectfully submitted,



s/ ANDREW U. D. STRAW
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CERTIFICATE OF SERVICE

I, *plaintiff* Andrew U. D. Straw, certify that I filed the above **NOTICE OF APPEAL** with the Clerk of this Court via email on **June 27, 2020**, and when the Clerk enters the document into the CM/ECF system, it will be served to all attorneys of record and available through Pacer.gov. I will also email Attorney Lance Steahly via carbon copy when I email this to the Clerk.

Respectfully submitted,



s/ ANDREW U. D. STRAW, *Plaintiff*, Proceeding *Pro Se*
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| ANDREW U. D. STRAW, |) | Fed. Cir.#: _____ |
| <i>Appellant,</i> |) | U.S. CAVC Case#: 18-7129 |
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| ROBERT WILKIE, SECRETARY |) | <u>Hon. Toth</u> |
| OF VETERANS AFFAIRS, |) | <u>Hon. Falvey</u> |
| <i>Appellee.</i> |) | Presiding Judges |

DOCKETING STATEMENT

Statute or other authority establishing jurisdiction in the:

CAVC: 38 U.S.C. § 7261

Court of Appeals: 28 U.S.C. § 1295

Timeliness of Appeal:

1. Date of entry of judgment or order appealed from: **6/26/2020**

2. Date the notice of appeal filed: **6/27/2020**

Is the order or judgment appealed from a final decision on the merits?
Yes

Based on Appellant's present knowledge:

Will this appeal involve a question of first impression? Yes, I believe so.

REQUEST: Given *in forma pauperis* hardship status was granted in the U.S. CAVC, I request leave to use the original record at CAVC and the Record on Appeal under FRAP Rule 24(c).

Are any related cases or cases raising related issues pending in this Court, any district court of this circuit, or the Supreme Court? No

State the nature of the suit, the relief sought, and the outcome below:

My mother and I were poisoned aboard the U.S. Marine Corps base known as Camp LeJeune, North Carolina. I was born at the base hospital and consumed the poisonous water and nobody even disputes this. My mother died from one of the cancers associated with the base and I have suffered from a mental illness for 51 years that was also associated with the base. I just want the health insurance that Congress promised to me after inflicting such overwhelming damage to my family. The VA, the BVA, and now a callous CAVC panel packed with conservative Republican Trump appointees have all denied me and this fight has gone on for 6 years since I first applied. The only issue is a nonsensical “residence requirement” that if resolved correctly, would allow me this benefit.

Issues to be raised on appeal.

1. CONSTITUTIONAL VIOLATIONS. It is important to decide whether Congress, which created an insurance for people its

military poisoned, can use irrational means to exclude some of the people injured.

2. In deciding the 5th Amendment irrationality, due process, and equal protection arguments I made, it is important to make an analogy.
3. Imagine going to a party and your drink is spiked by someone, causing you to go into a coma for 10 years or more. Then, in Court, the judge says that your presence at the party is established by the spiking and coma, but you cannot get tort relief because you did not *live there*. The people who owned the house (Congress) have decided that only the people who lived there could get relief for the spiking of drinks. AND, it was the people who lived there who spiked the drinks, after all.
4. It is nonsense to let the tort feisor decide whether any relief can happen. But that is what we have here. I have been denied compensation by a Justice Department that should have been on my side, helping me. *Straw v. United States*, 16-17573-GG (11th Cir. 5/22/2019). **RELIEF: DENIED.** North Carolina failed to

protect me and every judge who ever comes near my poisoning pokes me in the eye and says **NO, DENIED.** *Straw v. North Carolina*, 20-1295 (4th Cir.). It is absolutely pathetic how no justice flows from any court or the Justice Department. Every judge who denies us needs to resign. If they were faced with 51 years of suffering like I suffered and the death of my mom in my final year of law school, they would not act this way. Their insulation from consequence is why they will not provide justice in their callous lack of all compassion. More reason why judges do not merit immunity or independence from democratic mechanisms. <http://reform.andrewstraw.com>

5. I believe it is a constitutional requirement for judges to feel compassion toward tort victims (including human and civil rights) and crime victims instead of finding excuses to deny them justice.
6. It violates the 5th Amendment to allow irrational or unequal justice. This is not welfare, after all. It is not a privilege, but a duty of Congress to take care of those its military poisoned.

DENIED is simply not a possible answer. To say denied is to fail as a court when it comes to crime victims of the government.

7. I am asking every court to live up to the standard on top of the U.S. Supreme Court building.



8.

9. **RESIDENCE**. The Court bent over backwards to make sure I would lose because it is so easy to say that **1 day of base access and exposure to poisoning is one day of residence**. Given the Act

did not define residence and the very strong purposes in the Act to help and protect the babies like me who were poisoned, using a strict interpretation is an abuse. Not only an abuse of discretion, but an abuse of my human rights. The United States has signed treaties that prohibit militaries from poisoning civilians and the U.S. Military poisoned me. Residence can be construed to allow me coverage, but callousness and hate toward me prevailed. Remedial laws like this one must be **construed broadly** to effectuate the will of Congress. It was not done. *Tcherepnin v. Knight*, 389 U.S. 332, 336 (1967).

10. **JUDGES TOO CONNECTED TO THE MILITARY AND TRUMP** 2/3 of my panel were Republicans appointed by Trump. The panel was overwhelmingly connected to the military and thus have taken **oaths to protect that military but no oath to protect me**. They should have recused *sua sponte*, but chose not to. Their bias should motivate the Federal Circuit to give no deference to such judges or their ORDER. This bias may have caused the CAVC panel to allow the appellee brief to be late with no

explanation or motion for more time. This alone should have resulted in *pro forma* reversal.

Is settlement being discussed? No.

Is disposition on motions, memoranda, or abbreviated briefing schedule appropriate? Yes

Is oral argument necessary? No, because I am *pro se* and living in the Philippines and my poverty makes this impossible.

Were there any in-court proceedings below? Some minor proceedings, but the case was decided on the briefs alone. My rights were denied in a single ORDER on the briefs presented to the Court, though the appellee brief was significantly late.

IN FORMA PAUPERIS

This appeal is done *in forma pauperis* since those poverty and legitimacy of my lawsuit facts are still true. FRAP Rule 24(a)(3).

ADVERSE PARTIES (APPELLEES)

1. Veterans Administration

Lance Steahly, Esq.
Lance.Steahly@va.gov

APPELLANT

Andrew U. D. Straw, *a member of the bar of the
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Virginia State Bar #43651

Plaintiff-Appellant will be handling his appeal *pro se* unless counsel can be procured.

Signed this 27th Day of June, 2020



s/ ANDREW U. D. STRAW

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U.S. Court of Appeals for the Fourth Circuit*
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Plaintiff-Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I filed the foregoing:

DOCKETING STATEMENT

with the Court via email. The Clerk will scan and serve this document on all parties.. I will provide this filing and my notice of appeal to the email for the appellee:

Lance.Steahly@va.gov

Dated this 27th Day of June, 2020

A handwritten signature in black ink, reading "Andrew U. D. Straw", written over a horizontal line.

s/ ANDREW U. D. STRAW

Andrew U. D. Straw, a member of the bar of the
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