

SOUND OFF!



BULLETIN

THE NEWSLETTER OF VETERANS UNITED FOR TRUTH, INC.

#56

“VETERANS STANDING UP FOR EACH OTHER”

8 MAY 2012

THE COURT OF APPEALS WASHES ITS HANDS

An *en banc* panel of the Ninth Circuit Court of Appeals has issued its decision in our case brought on behalf of veterans suffering from Post-Traumatic Stress Disorder (PTSD). At issue on appeal was whether the United States District Court erred when it denied veterans’ request for relief to remedy unconscionable delays in VA’s provision of mental health care to veterans and VA’s adjudication of disability compensation claims filed by wounded veterans. The Ninth Circuit ruled in its decision today that the District Court did not err. In its decision, the Ninth Circuit held that a federal statute closes the courthouse door to constitutional claims by veterans. The full text of the decision can be found at www.veteransptsdclassaction.org.

This landmark case was brought on behalf of all veterans who are in desperate need of and have a right to VA medical treatment and disability compensation for war injuries. The unique nature of the combat tactics in the Iraq and Afghanistan wars has generated an unprecedented number of veterans suffering from PTSD and other invisible wounds of war. This well-documented PTSD epidemic, coupled with VA’s failure to provide veterans with timely access to healthcare, has led to a troubling rate of suicides among veterans in the VA’s care that the VA tried to conceal.

We have learned—and proven—that the VA cannot be trusted to tell us or Congress the truth. At a time when the VA was publicly reporting only 790 veteran suicide attempts in all of 2007, this lawsuit revealed for the first time an internal email from VA’s head of mental health that quietly cautioned, “Shh!...Our suicide prevention coordinators are identifying about 1,000 suicide attempts per month...Is this something we should (carefully) address...before someone stumbles on it?”

While we respect the court’s finding in the case they describe in the majority opinion, the case they describe and dismiss is not the case that we brought!

Let me repeat that.

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Download the full finding—all 52 pages of it. Read it! And then read, starting on page 43, Judge Schneider’s dissent. She got it right. She clearly shows that the majority finding is a complete misinterpretation of the petition in our case. Her opening is priceless!

We did not ask the court to re-visit a single VA decision concerning individual benefit adjudications. We asked the courts to intervene because the VA was not meeting the requirements of the law, and because neither the Congress nor the last several administrations are doing anything obvious about providing oversight to the VA’s failed processes. Because of their inaction, veterans constitutional rights are being violated as a matter of policy and process.

The former is clearly prohibited by the laws that Congress has passed and reworked over the last 82 years; those laws restrict federal intervention in DVA benefit decisions to the US Court of Veterans Appeals. Of course, their backlog was over 200,000 appeals two years ago. Timeliness is an essential issue in our case.

The latter action is clearly not prohibited by the law, rather it seems to all of us that it is one of the precise roles of the federal courts to protect all citizens’ constitutional rights from all assaults, whether by individuals or by the government itself.

The majority opinion strings out the precedents for the findings. These precedents are hard for laypersons to understand—they are for me. They follow, one after the other, similar to beads on a rosary, which any good Catholic knows is a circular device—the only way off it is down the short strand at the bottom. The court’s device still leads to a cross, but in this case it is the American veteran who has been crucified.

We do not believe that Congress intended for veterans to wait 4.4 years on average to have a claim adjudicated. But we all know, on most issues, Congress does a pretty lousy job of following up. They seem to believe that passing the law, good or bad, is enough—then they get back to their real job of fund-raising and getting re-elected.

Today's *LA Times* had a story about an overweight cat, and about an ethnic restaurant, but not a word about this case. NPR contacted us about the story then said they didn't have time to cover it. Fox called but never called back. Reuters called and we think is going to cover something about the issues involved: we'll see.

The public is not going to raise hell about this—they are almost universally disengaged.

The only time that Congress seems to do their oversight job is when it is politically expedient or profitable. On veterans' issues, other than maudlin-and-tearful or triumphantly-chest-beating speeches on Memorial Day or Veterans Day, they only get fired up when veterans force themselves into the room.

So, friends, let's force ourselves into the room!

Every one of us has one Representative and two Senators. In general they don't pay attention to anyone who is not their constituent. You can find your Representative at <http://www.house.gov/representatives/find/>. You can find your Senators at http://www.senate.gov/general/contact_information/senators_cfm.cfm.

Click your way through to find the address of their office in your state. (Letters sent to the DC office take 6 weeks or more to be screened to make sure that you are not trying to kill them with anthrax.)

E-mails can be passed over and ignored; snail mail has to at least be opened. Write a letter.

Address the letter itself properly with the DC address:

To Your Senator:

The Honorable (full name)
(Room #) (Name) Senate Office Building
United States Senate
Washington, DC 20510

To Your Representative:

The Honorable (full name)
(Room #) (Name) House Office Building
United States House of Representatives
Washington, DC 20515

Address the envelope to the legislator at his or her in-state address.

Write a brief letter, one page is best, telling your legislator that you want him or her to look into this case and the DVA's handling of veterans claims.

Three paragraphs are all that is needed"

1. Say why you are writing and who you are. List your "credentials." If you want a response, you must include your name and address, and you want a response, so say so.
2. Be factual not emotional. Provide specific information about how the topic affects you and others, and about how you believe it affects the country.
3. Close by requesting the action you want taken, which should be that you want your legislator to get personally involved with this issue and this case, whether or not they are directly involved with their Veterans' Affairs Committee. Tell them that you will hold them accountable when voting and donating depending on their specific actions.

Refer the legislator to the findings at www.veteransptsdclassaction.org but remember, they are lazy and they'll tell themselves that they are already overworked, so do part of the job for them. Get their attention!

Print out pages 43-52 of the finding and attach them to your letter. That will give them the abbreviated finding of the majority and all of Judge Schroeder's dissent.

Send the three letters by US Postal Service (we want to keep them in business don't we?)

If it is at all possible to raise interest in your legislator's office about this issue, that should do it. If they care, they will read the whole thing themselves, If they don't care, you have done all you can do.

This is going to cost you some time, and a couple of bucks, but the impact could be large.

Give it a shot!

And, FYI, we are on to the Supreme Court!

"Either we have hope within us or we don't; it is a dimension of the soul, an orientation of the spirit, an orientation of the heart -- not the conviction that something will turn out well, but the certainty that something makes sense."

Vaclav Havel