

RE: Sept 1982

BOARD OF VETERANS
AFFAIRS DECISION
DENIAL OF INCREASE OF SERVICE-CONNECTED
DISABILITY AND, AWARD FOR RETROACTIVE
BENEFITS FOR V.A. HOSPITALIZATIONS
OVER A THREE YEAR PERIOD.

ISSUE:

The determination of this BVA Decision is the denial of an increase for my service-connected disability. This Decision by the Veterans Board of Appeals in Washington, D.C. is in violation of 38 CFR 4.130, "EVALUATION OF PSYCHIATRIC DISABILITIES", claiming my disability had not changed.

DISCUSSION:

The 1985 BVA Decision, in referring to the 1982 BVA DECISION under EVIDENCE, page 3, reads, in part, "On the basis of such evidence the Board made the following pertinent finding of fact: THE VETERAN'S SCHIZOPHRENIC REACTION, LATENT TYPE, IS PRIMARILY MANIFESTED BY SYMPTOMATOLOGY IN GOOD REMISSION WITH NO MORE THAN CONSIDERABLE IMPAIRMENT OF SOCIAL AND INDUSTRIAL ADAPTABILITY".

Page 4, of the 1985 BVA Decision, continues..."BASED ON THE FINDINGS OF FACT"... "A RATING IN EXCESS OF THE 50% CURRENTLY ASSIGNED FOR SCHIZOPHRENIC REACTION, LATENT TYPE, IS NOT WARRANTED". The following list of psychiatric evaluations were used to affirm the 1982 BVA Decision.

SOURCE	DIAGNOSIS & RATING
1. V.A. SPECIAL PSYCHIATRIC EXAMINATION DATED 1975	CHRONIC ANXIETY REACTION 70% (TOTAL 100%)
2. VA SPECIAL PSYCHIATRIC EXAMINATION DATED 1977	CHANGE OF DIAGNOSIS 100% to 50%

The VA changed the diagnosis of number one to LATENT SCHIZOPHENIA, 70%, with a total rating of 100% due to unemployability. Then the BVA reduced the rating to 50% THUS automatically terminating "unemployability". This represented only a change in diagnosis, not a change in my basic condition. This also represents to me the beginning of my problems with the Veterans Administration.

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| 3. VA SPECIAL PSYCHIATRIC EXAMINATION
Dated, November, 1978 | CHRONIC
UNDIFFERENTIATED
SCHIZOPHRENIA(100%) |
| 4. SPECIAL PSYCHIATRIC EXAMINATION BY
SOCIAL SECURITY
Dated, May, 1979 | SEVERE ANXIETY
NEUROSIS 100% |
| 5. REPORT FROM 21 DAYS IN VA PSYCHITRIC
WARD, dated, September,1979 | ANXIETY, DEPRESSION
BRIQUET SYNDROME
(BVA DECISION,100%) |
| 6. REPORT FROM 5 1/2 MONTHS IN VA
HOSPITAL AT AMERICAN LAKE,TACOMA,WA.
Dated, May, 1980 | SCHIZOPHRENIA,
PARANOID TYPE BY
HISTORY, PTSD
(BVA DECISION,100%) |
| 7. REPORT FROM DR. NORM PETERSON
Dated, March, 1981 | DELAYED STRESS
SYNDROME 100% |
| 8. SPECIAL PSYCIATRIC EXAMINATION
Dated, Oct, 1981
and
REPORT FROM TWO MONTHS IN VA
HOSPITAL
Dated, November, 1981 | CHRONIC UNNDIF-
ERENTIATED
SCHIZOPHRENIA

ADJUSTIVE REACTION
WITH ANXIETY AND
DEPRESSION
(BVA DECISION 100%) |

CONCLUSIONS:

AS CAN BE SEEN BY THE ABOVE LIST OF RATINGS AND DIAGNOSIS, THE VA ERRED IN THE ABOVE BOARD OF VETERANS APPEALS DECISION ,SEPT 1982, BY NOT CHANGING THE 50% LATENT SCHIZOPHRENIA RATING (on at least seven occations) as required PER 38 CFR 3.157, 3.201, 3.303, 3.326, 3.327. This decision also violates part or all of the following regulations: 38 CFR 3.101 AND 2, 3.105, 3.156, AS WELL AS 38 CFR 4.13, 4.16 (unemployability)