

ORIGINAL DOCUMENTATION OF CLAIM AGAINST THE VETERANS ADMINISTRATION BY GEORGE OJALA

HISTORY: I went to Vietnam in 1971 and was assigned to Da Nang, Vietnam. I was the flight engineer, hoist operator and door gunner on the 37th Aero Space and Recovery Squadron's HH-53-c helicopter, called the Jolly Green's. Our only purpose was to save lives. We had a body count of over 5,000 rescues during the war.

I flew one hundred and twenty-three combat missions resulting in the awarding of five Air Medals. I also received the DFC for one rescue mission. I also flew on the number one Jolly Green that covered the first bombing raids into North Vietnam in early 1972.

I got out of the Air Force in March of 1973 and tried to go back to college. I had my first "flashback" on the campus of the University of Washington in 1974. I entered the Veterans Administration in 1975 and applied for Service Connected Disability.

I got a rating of 70% for Chronic Anxiety Reaction. I was also rated at 100% due to unemployability. This was reaffirmed in January of 1977.

CASE: I was notified by the Veterans Administration to report for another Special Psychiatric Examination in November of 1977, less than ten months from the "evaluation" mentioned above. As a result of that 15 minute interview, my benefits were cut by fifty per cent on March 31st, 1978.

It took over six years in the Appeals Process to receive my 100% rating back. The VA's diagnosis was "Chronic Posttraumatic Stress Disorder Secondary to Extreme Anxiety-Provoking Situations of Combat in Vietnam" This Decision was in August of 1984.

ISSUE: Under this VA's Decision's CONCLUSION OF LAW, it states that "an award of 100% schedular evaluation for chronic posttraumatic disorder, prior to August 28th, 1984 is not warranted." I have appealed the above decision countless times based on the principle of "Obvious Error". See SUBSTANTIVE APPEAL OF GEORGE OJALA. This Appeal is over 22 years long.

EVIDENCE: I will show through the following documentation from letters and from Doctor's reports that there is a direct link of "Schedular" evidence that shows a cover up on the part of the Veterans Administration on an illegal policy that was done with premeditation.

Exhibit "A" is a letter from (General ?) James E. De Wire, Chief of Staff of the Reagan/Bush White House, dated May 22nd, 1987. This letter contains the "Original Error" that the VA has used in all of their Decision's denying me my retroactive benefits. This is also the basis for my "Appeal based on Obvious Error".

The second paragraph states the following: "Mr. Eaton [Chairman of the Board of Veterans Appeals] advised me that following an examination in 1977, the regional office decreased the evaluation of your service-connected schizophrenic reaction from 70% to 50% effective from April 1, 1979 (should be 1978) and also discontinued your total rating based upon individual unemployability, effective March 31, 1979 (should be 1978)."

The appeal of my case has always been based on the fact that I was rated at 70% for Chronic Anxiety Reaction and rated at 100% due to unemployability. This rating was affirmed by the Veterans Administration in January of 1977. The Veterans Administration committed "OBVIOUS ERROR" by not using the original diagnosis and dates that I have based this 22 year appeal on. All the VA has done is defend their illegal actions.

Exhibit "B" contains two documents. The first is a REQUEST FOR PHYSICAL EXAMINATION dated October 3, 1977. The second document is the results of the November 2, 1977 "Special Psychiatric Examination" by C. Richard Johnson, M.D. that the first document asks for.

The Request for Physical Examination shows that my Disability is for Chronic Anxiety Reaction. In the remarks section is a note to see "report from Dr. C. Glenn Clements, Dated 9-22-77."

The second document is the results of the Special Psychiatric Examination. Under "Conclusions" the doctor states..."I will change my diagnostic impression (gained in less than 15 minutes) from that of an anxiety reaction, to schizophrenic reaction, latent type. " He goes on to say..."THIS DOES NOT REPRESENT A CHANGE IN HIS BASIC CONDITION, BUT ONLY A CHANGE IN DIAGNOSIS."

The Veterans Administration then uses this "Change of Diagnosis" as the sole basis to cut my benefits by 50%. The VA regulations in effect at the time say that you have to gradually reduce a Veteran's Benefits. You can't legally cut a Veteran by 50% in one action. They used one action and implemented it over a two month period.

Exhibit 'C' contains two letters from Dr. C. Glenn Clements, M.D. The first letter is dated September 22, 1977 and is the report that is referred to in Exhibit "B" Request for Physical Examination. This is also the report the Veterans Administration used to cut my unemployability rating and reduce my benefits by 50%.

Under PSYCHIATRIC DIAGNOIS on the last page, Dr. Clements states the following..."I feel he is incapacitated for work at this time, due to his mental illness. ". He goes on to say..."Certainly his condition has been chronic and incapacitating for two years and that doesn't auger well for a speedy recovery."

What this shows is that the VA didn't bother to read Mr. Clements report when they cut my unemployability or reduced my benefits. As Dr. Johnson stated in his report. "My condition hasn't changed".

The second letter from Dr. Clements is dated August 22, 1984 and is a clarification of the report he wrote that was used to cut my benefits.

He states near the end of the second paragraph..."As classified currently I would have labeled his condition as "Schizophrenia, Chronic, Residual Type". On the last page, he states..."Essentially I saw the thrust of my report as indicating that he had a more serious mental condition than anxiety neurosis or even than the more recent popularized label of post traumatic stress syndrome".

The Veterans Administration has maintained that there is no evidence of schedular documentation in my case file showing I warranted a 100% rating prior to the August 28, 1984 Decision mention on the first page. This is a lie on the part of the VA. What they have done is to ignored the documentation I have sent them over the years.

Exhibit "D" is a copy of a SPECIAL PSYCHIATRIC EXAMINATION by the SOCIAL SECURTIY DISABILITY REVIEW BOARD, dated May 3, 1979. Their Diagnosis is for Severe Anxiety Neurosis and it is for a 100 % rating. I sent this document to the VA and quoted from 38 CFR 3.201 "Exchange of Evidence: Social Security and Department of Veterans Affairs". This regulation requires the VA to reopen my case. They never did. This is another Obvious Error on the part of the VA.

Exhibit "E" is a copy of two letters from Dr. Norm Peterson, Dated March 24, 1981 and a "To Whom It May Concern" letter dated April 11,1988. The third copy is a list of reasons I went into a VA Hospital on the Psychiatric Ward (two month period) and is dated: November 19, 1981.

In Dr. Peterson's first letter, he states in the last paragraph of the first page..."My clinical observations coupled with past V.A. Hospital records lead me to the diagnosis of Delayed Stress Syndrome caused by combat experiences in Vietnam." He goes on and states..."George is now 100% disabled by his symptoms, and has been continuously so since his symptoms first began in 1975."

In his April 11, 1984 letter, Dr. Peterson states in the second paragraph..."In retrospect it appears that Mr. Ojala was suffering from Post Traumatic Stress Disorder when I first started treating him in July of 1980."

Exhibit "F" is a copy of a report by a Dr. Yokan, dated, May 21, 1980 and covers a 5 and 1/2 month stay at the VA Hospital at American Lake, in Tacoma, Washington. The last diagnosis that they have is Post Traumatic Stress Syndrome. The VA, again creates Obvious Error in not using this report in looking for "Scheduler" documentation on my behalf.

Exhibit "G" contains two letters from Dr Harry Kormos. One is a PSYCHIATRIC EVALUATION, dated August 28, 1984. I gave this report to the VA and they finally acknowledged that I had Post Traumatic Stress Disorder. I wish to quote him from the first paragraph on page four. This is in answer to the VA claiming that I was Schizophrenia, as documented in Exhibit "A".

"CERTAIN OBSERVATIONS CAN AT THIS TIME BE MADE WITH CONFIDENCE. HIS RESPONSE TO THE VARIOUS ANTIPSYCHOTIC MEDICATIONS HE HAS BEEN GIVEN IS QUITE ATYPICAL FOR SCHIZOPHRENIA. WHEREAS, CLASSICALLY, THE SCHIZOPHRENIC PATIENT HAS A HIGH TOLERANCE FOR THE SIDE EFFECTS OF ANTIPSYCHOTICS AND DERIVES BENEFIT FROM THESE AGENTS, THE PATIENT'S RESPONSE HAS BEEN THE EXACT OPPOSITE. "

"THE ABNORMAL PERCEPTIONS PATIENT HAS ON OCCASION REPORTED IN THE PAST ALSO ARE NOT CHARACTERISTIC FOR SCHIZOPHRENIA."

"THE FAMILY HISTORY IS ENTIRELY DEVOID OF MENTAL ILLNESS IN SO FAR AS CAN BE DETERMINED, AGAIN AN UNUSUAL FINDING IN SCHIZOPHRENIA.

"ALL OF THE ABOVE OBSERVATIONS ARE ON THE OTHER HAND CONSISTENT WITH A DIAGNOSIS OF POST TRAUMATIC STRESS DISORDER."

The second letter is dated: July 12, 1988 and says he can support my claim for retroactive benefits. I have to pay him \$450 up front to do so. Page four

CONCLUSIONS:

What I have shown is that the Veterans Administration violated my rights before I even got noticed for the November 1977 'Special Psychiatric Evaluation'. They already knew what action they were going to take and screw the regulations and/or the reports.

The VA continued to violate my right to due process by not accepting the original date of claim, which would be the January Evaluation of 1977 by Dr. Johnson. This is shown in Exhibit "B".

His first diagnosis was Acute Anxiety Reaction, rated at 70% service-connected by the VA. He also said I was unemployable and I was rated at 100% service-connected due to individual unemployability by the VA. The VA then tells him to change my diagnosis to "Schizophrenia, latent type". He does this by saying..."THIS DOES NOT REPRESENT A CHANGE IN HIS BASIC CONDITION, BUT ONLY A CHANGE IN DIAGNOSIS."

The above documentation is the meat and potatoes of my VA Case File that I opened or started over 26 years ago, when I first applied for benefits. My file has ballooned over the past twenty-two years and is now over 4 inches thick.

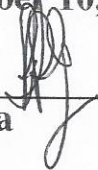
SUMMARY:

I wrote the SUBSTANTIVE APPEAL OF GEORGE OJALA on August 8, 2000. This Appeal was opened by a letter I wrote to Al Gore and the White House that opened the Appeal Process on October 8, 1996. It is about 84 pages long and contains the Rules and Regulations that the Veterans Administration has violated, just in the last round of this appeal that has taken over three years to complete.

I decided to go through my own records and put together the documentation that shows a composite of the original sin committed by the Veterans Administration. I have had to learn how to follow the paper trail left by the Veterans Administration during the past 22 years or so.

I have shown that the VA is in error and a ruling in my favor is long overdue.

Dated: October 10, 2000

COPY 
George Ojala