

The Service Connection

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Veterans' Law Newsletter

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Service Connection
for MST

Understanding the VA Disability Timeline

By Jerusha Hancock, Veterans' Attorney

Most veterans understand that when a politician gives a timeline, it is rarely met. Several Iraq war vets have seen extended deployments. While it is difficult for a commander to tell his soldiers their deployment has been extended, it is much harder for a soldier to share that information with his or her spouse and children. Unfortunately the uncertain timelines that veterans saw in service are also prevalent in the VA system.

One of the most frequently asked questions we get is "Why is the VA taking so long to make a decision?"

It's important to understand that the VA processes new and appealed claims on different time frames. If you are submitting new claims, you can usually expect a decision in three to six months. You can improve the likelihood of receiving a favorable decision by including all necessary information in your claim, like evidence of an in-service event or injury, evidence of a current disability, and a nexus, or link, that ties the two together.

Once you receive a rating decision, you have a year to appeal any part of the decision that is unfavorable.

Once you've appealed that initial decision, however, the wait time for receiving a response varies. Regional offices that serve fewer veterans will be less burdened, and you may receive a response in a few months or a year. Regional offices that serve many veterans have more appeals in the pipeline and will take longer to respond. Delays lasting longer than a year are not uncommon. There's no way to accurately predict exactly how long you will have to wait for a rating decision.

Under certain circumstances, a veteran may request that his or her claims be expedited, which can speed up the process. Terminal illness, severe financial hardship, and advanced age will result in your claim being decided faster. Again, it's important to note that "faster" does not mean within a few days or weeks; it just means that you're in the expedited claims line.

Hiring an attorney may not necessarily speed up the process, but they can provide invaluable help navigating the system, and may get you a good decision earlier in the appeals cycle. Plus, they take care of most of the work on your behalf.

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Captain Berry in Vietnam, 1969.

Crime in Saigon

By John Stevens Berry Sr.

Saigon gleamed with the hard clear energy of survival. It was a city of drugs, romance, and adventure. There were good restaurants, criminal organizations from throughout the Far East, and many opportunities for an American deserter to make a kind of life. Specialist O'Brien was from the 101st Airborne Division. He concealed his epilepsy from the Army when he enlisted. He had the Combat Jump Badge, Combat Medic Badge, and he had been in country for 11 months, no leave, no R&R.

He had a few days in Saigon, "fell in love," and found himself the status of a deserter, trying to find money for his girlfriend.

At some point, he was robbing a woman who was involved in black market activities. He had been taking drugs, and was having some hallucinations, and he killed her by shooting and stabbing.

Because I had taken a number of cases for the 101st Airborne division, I was appointed to defend him.

I visited the scene of the crime, I visited the small Vietnamese jail where he had been confined, I arranged for him to be seen by neurologist and a psychologist. He had no mental defense, and had already confessed, so I had no choice but to plead him guilty and do what I could during the sentencing phase.

I went out and humped the boonies with his unit, yellow pad, ballpoint pen, lots of C-rations and one firefight, but by God I got a ton of buddy statements, all of which were eventually marked, offered, and read into the record!

Unfortunately, before court, I had the terrible duty of informing him that his twin brother had been killed while acting as a door gunner in a helicopter.

I put that into the record, as well as letters from his parents and people who had known him back home. It was a hot stuffy shack in which we had a hearing, but I spent a dozen hours putting in materials in mitigation and extenuation.

Of course, given his various charges of murder with use of a weapon, narcotics, theft, desertion, etc. a life sentence was automatic.

But two members of the court signed clemency petitions: one for 15 years, one for 12 years.

The convening authority changed the sentence to 25 years.

The reason I had put the time, energy, and documents into the record for his sentencing purposes, soon became clear. The Army Clemency Board and the Office of the Secretary of the Army further reduced his sentence to 13 years. He was released after 5 years in confinement and 4 years later he was released from parole.

The time and effort we put into making his record paid off.

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I think of his family, and of the victim's family, going through grieving and healing half a world apart.

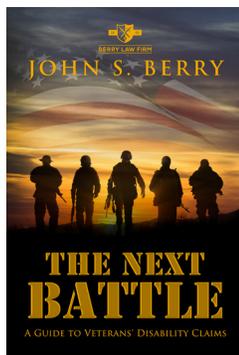
Because of his epilepsy, he should not have been allowed to enlist in the Army. I do not know if the epilepsy combined with the drugs and the stress of the times, but I do know when I dealt with him, he was a very pleasant young man.

The lesson to be learned is this: the case was an automatic life sentence. But if you put enough good things in the record, sooner or later someone is going to read them. Load up your record with everything helpful you can get your hands on! There are never too many good things whether you are going through the justice system or a VA claim!

Remember

Contact us as soon as you receive
a decision from the VA.

Send Mail To:
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For a free copy of our guide to veterans' disability claims, send us an email at book@ptsdlawyers.com

Lorraine's Corner

Lorraine worked at the VA for 37 years before joining our team.

Service Connection for MST

By Lorraine Chrastil

The VA grants service connection for disability related to military sexual assault or sexual harassment to men and women who experienced these forms of trauma while on active duty, active duty for training, or inactive duty for training. Although many of these incidents went unreported, a claim should be filed for service connection. This is because service connection may be established by evidence in service medical and personnel records, statements from the Veteran and others, such as service members, relatives, and others that noted behavior changes following the incident.

Those who have experienced military sexual trauma (MST) may experience depression, anger, anxiety, irritability, difficulty concentrating, trouble sleeping, relationship problems, problems with alcohol or drugs, inability to feel safe, and even physical health problems.

If you suffered MST in service, specialized treatment and programs are also available at VA Medical Centers.

If you know a veteran who needs our help,
please pass this newsletter along.

Questions? Comments?
Email us at status@ptsdlawyers.com.



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