



**BOARD OF VETERANS' APPEALS**

**DEPARTMENT OF VETERANS AFFAIRS**

**WASHINGTON, DC 20420**

IN THE APPEAL OF

[REDACTED]

[REDACTED]

IN THE CASE OF

[REDACTED]

DOCKET NO. [REDACTED]

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DATE 03 NOV 2011

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On appeal from the  
Department of Veterans Affairs Regional Office in Albuquerque, New Mexico

**THE ISSUE**

Entitlement to service connection for the cause of the Veteran's death.

**REPRESENTATION**

Appellant represented by: Disabled American Veterans

**WITNESS AT HEARING ON APPEAL**

Appellant

IN THE APPEAL OF  
[REDACTED]

IN THE CASE OF  
[REDACTED]

ATTORNEY FOR THE BOARD

N. Kroes, Associate Counsel

INTRODUCTION

The Veteran served on active duty from July 1966 to January 1970. The appellant is the Veteran's widow.

This case comes before the Board of Veterans' Appeals (Board) on appeal from a July 2002 decision of the Department of Veterans Affairs (VA) Regional Office (RO).

In September 2007, the appellant testified at a hearing before a Decision Review Officer at the RO. In June 2010, the appellant testified at a Travel Board hearing before the undersigned Veterans Law Judge. Transcripts of those hearings are associated with the claims file.

In January 2011, the Board remanded the issue of entitlement to service connection for the cause of the Veteran's death for further evidentiary development. The requested development was completed, and the case has now been returned to the Board for further appellate action.

FINDINGS OF FACT

1. The Veteran received the Combat Action Ribbon for his service in Vietnam.
2. The Veteran was diagnosed with posttraumatic stress disorder (PTSD) related to events that took place during his service in Vietnam.

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3. The Veteran died on March 2, 2001; the death certificate lists the immediate cause of death as acute and chronic alcoholism.
4. Medical evidence indicates that the Veteran's chronic alcoholism was a symptom of his PTSD.

#### CONCLUSION OF LAW

With resolution of reasonable doubt in the appellant's favor, the criteria for establishing service connection for the cause of the Veteran's death have been met. 38 U.S.C.A. §§ 1110, 5107 (West 2002); 38 C.F.R. §§ 3.102, 3.303, 3.312 (2010).

#### REASONS AND BASES FOR FINDINGS AND CONCLUSION

The Veterans Claims Assistance Act of 2000 (VCAA), Pub. L. No. 106-475, 114 Stat. 2096 (Nov. 9, 2000) (codified at 38 U.S.C.A. §§ 5100, 5102, 5103, 5103A, 5106, 5107, and 5126 (West 2002 & Supp. 2010)) redefined VA's duty to assist a claimant in the development of a claim. VA regulations for the implementation of the VCAA were codified as amended at 38 C.F.R. §§ 3.102, 3.156(a), 3.159, and 3.326(a) (2010). In light of the fully favorable determination in this case, no further discussion of VCAA compliance is necessary.

To establish service connection for the cause of the Veteran's death, the evidence must show that a disability incurred in or aggravated by active service was the principal or contributory cause of death. 38 U.S.C.A. § 1310 (West 2002); 38 C.F.R. § 3.312(a) (2010). To constitute the principal cause of death, the service-connected disability must be one of the immediate or underlying causes of death, or be etiologically related to the cause of death. 38 C.F.R. § 3.312(b).

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To be a contributory cause of death, it must be shown that there were “debilitating effects” due to a service-connected disability that made the veteran “materially less capable” of resisting the effects of the fatal disease or that a service-connected disability had “material influence in accelerating death,” thereby contributing substantially or materially to the cause of death. *See Lathan v. Brown*, 7 Vet. App. 359 (1995); 38 C.F.R. § 3.312(c)(1).

Service connection may be established for a disability resulting from disease or injury incurred in or aggravated by service. 38 U.S.C.A. § 1131 (West 2002); 38 C.F.R. § 3.303 (2010). Evidence of continuity of symptomatology from the time of service until the present is required where the chronicity of a condition manifested during service either has not been established or might reasonably be questioned. 38 C.F.R. § 3.303(b). Regulations also provide that service connection may be granted for any disease diagnosed after discharge, when all of the evidence, including that pertinent to service, establishes that the disability was incurred in service. 38 C.F.R. § 3.303(d).

In order to prevail on the issue of service connection, there must be medical evidence of a current disability; medical evidence, or in certain circumstances, lay evidence of in-service occurrence or aggravation of a disease or injury; and competent evidence of a nexus between an in-service injury or disease and the current disability. *See Hickson v. West*, 12 Vet. App. 247, 253 (1999); *see also Barr v. Nicholson*, 21 Vet. App. 303 (2007); *Pond v. West*, 12 Vet App. 341, 346 (1999).

The Board has reviewed all of the evidence in the Veteran’s claims file. Although the Board has an obligation to provide adequate reasons and bases supporting this decision, there is no requirement that the evidence submitted by the appellant or obtained on her behalf be discussed in detail. Rather, the Board’s analysis below will focus specifically on what evidence is needed to substantiate the claim and

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what the evidence in the claims file shows, or fails to show, with respect to the claim. *See Gonzales v. West*, 218 F.3d 1378, 1380-81 (Fed. Cir. 2000) and *Timberlake v. Gober*, 14 Vet. App. 122, 128-30 (2000).

The Veteran died on March 2, 2001; the death certificate lists the immediate cause of death as acute and chronic alcoholism.

The appellant contends that that the Veteran had PTSD as a result of his service and that he drank alcohol to self medicate for his PTSD.

Establishing service connection for PTSD requires: (1) medical evidence diagnosing PTSD; (2) credible supporting evidence that the claimed in-service stressor actually occurred; and (3) medical evidence of a link between current symptomatology and the claimed in-service stressor. 38 C.F.R. § 3.304(f) (2011); *see also Cohen v. Brown*, 10 Vet. App. 128 (1997).

If the evidence establishes that a veteran engaged in combat with the enemy and the claimed stressor is related to that combat, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of a veteran's service, a veteran's lay testimony may establish the occurrence of the claimed in-service stressor. 38 C.F.R. § 3.304(f) (2010).

While service connection was never awarded for PTSD during the Veteran's lifetime, he had been diagnosed with PTSD as a result of his service in Vietnam (*see* VA treatment record dated February 15, 2001 and Vet Center record dated June 30, 1997). The record shows that he was awarded a Combat Action Ribbon for his service. The Combat Action Ribbon is proof that the Veteran engaged in combat with the enemy. As the Veteran had been diagnosed with PTSD related to his combat experiences in Vietnam, the Board finds that the Veteran's PTSD was caused by his wartime experiences.

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A VA medical opinion was obtained in February 2011. The VA psychologist opined that the Veteran's acute and chronic alcoholism was at least as likely as not secondary to PTSD. The psychologist explained that the alcoholism and PTSD had concurrent onset, concurrent symptoms, concurrent diagnoses by treatment providers, and that treatment planning addressed both alcohol dependence and PTSD, citing examples. The psychologist also cited to other practitioners' statements indicating a connection between PTSD and the Veteran's alcohol dependence.

The appellant has also submitted a private medical opinion dated February 2010 that is favorable to her claim.

Dr. BASH  
Report

Resolving all doubt in favor of the appellant, the Board finds that the Veteran's death was caused by alcoholism that was a symptom or secondary to PTSD resulting from his experiences during service. *See Gilbert v. Derwinski*, 1 Vet. App. 49 (1990). Accordingly, service connection for the cause of the Veteran's death is warranted.

ORDER

Entitlement to service connection for the cause of the Veteran's death is granted.



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K. A. BANFIELD  
Veterans Law Judge, Board of Veterans' Appeals