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BULLETIN

THE NEWSLETTER OF VETERANS UNITED FOR TRUTH, INC.

#64

“VETERANS STANDING UP FOR EACH OTHER”

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We are proud to share this excellent article about our class action lawsuit with all of you.

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**BREAKING NEWS: WILL SUPREME COURT COME THROUGH FOR OUR VETERANS?**

Jamie Reno, The Reno Dispatch <http://www.blogger.com/profile/07503392544496379634>  
Friday, November 16, 2012

The next two months are crucial ones for America's veterans. Why? Because the U.S. Supreme Court is expected to finally decide within that time frame whether to hear the case of *Veterans for Common Sense v. Shinseki*, the groundbreaking lawsuit that focuses on veteran access to health care and disability benefits . <http://www.thedailybeast.com/articles/2012/05/09/court-rejects-iraq-afghanistan-veterans-demand-for-better-va-care.html>

One of the most important lawsuits ever filed on behalf of America's wounded warriors, *Veterans for Common Sense v. Shinseki* represents the last chance to legally address the chronic delays veterans of the wars in Iraq and Afghanistan face when seeking mental health care and when filing for disability benefits.

Specifically, this case will determine whether the [Veterans Judicial Review Act](#) passed back in 1988 allows veterans to challenge, in federal court, the systemic delays in the Department of Veterans Affairs' (VA's) provision of mental health care and death and disability compensation. <http://legal-dictionary.thefreedictionary.com/U.S.+Court+of+Appeals+for+Veterans+Claims>

In other words, if this lawsuit fails, veterans will basically have no legal recourse when they're unable to get prompt mental health care or are unable to get their disability claims processed in a timely fashion.

In September, Veterans for Common Sense (VCS) <http://veteransforcommonsense.org/> and Veterans United for Truth (VUFT) <http://veteransunitedfortruth.org/>, the two indefatigable non-profit veterans advocacy groups that originally brought this suit back in 2007, filed a petition asking that the Supreme Court hear the case.

Will the Court step up? And if not, will President Obama step in? The President has been a hands-on leader on veterans issues. He's greatly improved conditions for veterans on such fronts as mental health care staffing at VA, suicide prevention, Agent Orange compensation, jobs, and homelessness.

But largely because so many troops have come home in the last four years and entered the VA system, the backlog of pending disability claims has more than doubled since Obama took office in 2009. VA Secretary Eric K. Shinseki promised two years ago to “break the back of the backlog by 2015,” and said claims would be processed within 125 days, with 98 percent accuracy. But that goal frankly seems unrealistic now.

If the Court keeps veterans from having any legal say, the President can, and should, intervene with an executive order. This would be a definitive demonstration that he is truly committed to our veterans.

Obama clearly understands that the disability claims backlog, which now exceeds 1,100,000 according to VA's own numbers, is a crisis. In a Veterans Day speech this week, he said, "No veteran should have to wait months or years for the benefits that you've earned, so we will continue to attack the claims backlog. We will not let up."

There appears to be bi-partisan support for this. Even James Nicholson, the former secretary of the VA under President George W. Bush and the original defendant in this lawsuit, says it's time to end this backlog. Nicholson, who left the VA in 2007 amid great controversy and was a senior adviser on veterans issues in the Mitt Romney campaign, wrote last week in the Washington Post that the "ever-increasing claims backlog and the resulting delays are destroying the trust that needs to exist between the VA and veterans... our veterans deserve better."

It is hard to imagine anyone disagreeing with this - no matter where you are on the political spectrum.

The two veterans group plaintiffs, which are represented pro bono by Morrison & Foerster LLP and Disability Rights Advocates, say that this is likely the last opportunity for this Court to intervene in time for post-9/11 veterans. Combat veterans are entitled to free health care from the VA for only five years after their service ends.

"If left un-reviewed," write the pro bono attorneys in the lawsuit petition, "the Ninth Circuit's decision (against the plaintiffs and for the VA) will condemn these veterans to suffer intolerable delays inherent in the VA system."

Dan Fahey, president of VCS's board of directors, says the VA faces a "crisis of chronic delays and errors processing veterans' disability compensation claims. The Veterans Benefits Administration (VBA) reports 900,000 disability claims pending an average of eight months."

The Board of Veterans' Appeals reports an additional 250,000 appealed claims pending an average of four more years, according to Fahey. In Congressional testimony in June, VA's Office of the Inspector General reported how VA made errors in 30 percent of nearly 5,000 claims reviewed during inspections at 50 of VA's regional offices  
<http://www.va.gov/oig/pubs/statements/VAOIG-statement-20120619-halliday.pdf> .

"Thousands of veterans die each year while their disability claims languish at VA," Fahey notes.

Also, despite improvements by the current administration in the way in which mental health care issues are addressed at VA, problems persist. For example, the [Spokesman-Review](#) reports that "veterans are waiting an average of 80 days to meet with a mental health care provider at the Spokane VA Medical Center, falling far short of the 14-day goal set by Veterans Affairs."  
<http://www.spokesman.com/stories/2012/apr/24/va-delays-unacceptable/>

This lawsuit is vitally important. I don't think it's overstated to suggest that ruling in favor of the bureaucrats at the VA in this case and against our millions of veterans would not only be a great injustice, it would be un-American. It would send our veterans, our heroes, the very clear message that their voices are not being heard or respected.

If you're interested in following this lawsuit, keep reading this blog. We will be covering this regularly. You can also visit the Supreme Court's website [www.supremecourt.gov](http://www.supremecourt.gov) , and view the status of the landmark VCS/VUFT case , Docket 12-296  
<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-296.htm> .

<http://therenodispatch.blogspot.com/2012/11/breaking-news-will-supreme-court-come.html>