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# Wrongful Death? An Increase in Iraq War Veterans with Post Traumatic Stress Disorder Committing Suicide

November 11th, 2008

I recently viewed a disturbing evening news program that reported the significant increase in suicides experienced by soldiers returning from combat duty in Iraq. One of the soldiers featured in the report had experienced symptoms of PTSD while on active duty which continued after his discharge. His attempts to receive treatment at the VA were unsuccessful. Eventually, his disease overwhelmed him and he committed suicide leaving behind a wife and three minor children. The report noted that after a great deal of effort his family was awarded VA benefits.

A question raised by this report, but not answered, is whether this veteran's family was entitled to file a medical malpractice wrongful death claim against the government? The answer is, "It depends."

First, it depends on whether denying appropriate mental health care to a patient with diagnosed PTSD is in fact negligent. Second, it depends on whether the family can establish that the failure to provide care was a direct and proximate cause of the veteran's suicide. Finally, it depends on the state where the negligent care, or lack thereof, occurred.

Let me address the questions posed in reverse order. Under the [Federal Tort Claims Act](#), the claimant must apply the law of the state where the negligent conduct occurred. Some states do not allow damage recovery for suicide. They consider suicide to be a form of contributory negligence or self-inflicted wound.

If the state law includes suicide in its wrongful death statute, then the family will have to prove by expert testimony that the veteran's death was directly caused by the negligent provision, or negligent failure to provide, adequate mental health care which would have avoided this outcome. This is often difficult to do but will turn on the facts of each case.

Finally, the family will have to prove that the mental health care provided breached the standard of care. This is always a challenge in mental health cases. Unlike medical cases, where the treatment regimen is often quite clear once a diagnosis is made, psychiatric cases are far more complicated. Proving that the doctors treating the patient were negligent is never easy because treating such patients is never easy. As a consequence, claimants are well advised to [consult with an experienced attorney](#) before filing such claims under the FTCA. In the appropriate circumstance such cases can result in substantial recoveries for the family which suffers such a devastating loss.