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***If Veterans don't help Veterans, who will?***

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# **US Court of Appeals for Veteran Claims - an Overview**

## **15 June 2018**

The U.S. Court of Appeals for Veterans Claims was established by Article I of the Constitution to review decisions of the Board of Veterans' Appeals (BVA), which is part of the VA. This court has exclusive jurisdiction over these types of cases. The court reviews decisions appealed by claimants who believe the board erred in its decision. The court's review is based on the record before the agency and arguments of the parties, which are typically presented in a written brief, with oral argument generally held only in cases presenting new legal issues.

Among the types cases heard by the court are:

- Survivor benefits cases relate to decisions on whether survivors of Veterans killed in the line of duty will be granted VA benefits. This can include education payments, medical coverage and even lost wages.
- Service-connected disability claims relate to any case searching for disability benefits for a Veteran who was injured while serving his/her country. This type of case will typically seek disability payments, medical coverage and payments, and education payments.
- Cases that involve dispute over education payments – either the amount or frequency.
- Cases that involve claims of benefits such as medical coverage and payments, and may be seeking coverage for specific ailments, surgeries, medicines or other therapies.
- Waivers of indebtedness cases involve requests for the VA to waive, or cease collection on, a debt that is owed for education, disability benefits or medical costs.
- VA home loan eligibility involving the Board of Veterans' Affairs decision in matters of eligibility of a home loan.

The court mainly reviews the board's decision or just as the Veterans law judge reviewed it at the BVA. However, BVA will consider new evidence once the file has been returned to them. The court's decisions primarily are based on whether a legal error was made when BVA denied the claim. The court operates on strict timelines for paperwork and filing, and these are outlined on the court's website as well as the process. Either the appellant (claimant) or the appellee (court attorney) may request extensions for filing necessary documents. Court documents and responses are filed electronically. Sometimes a record may be sent to the representative of the Veteran for review via mail. The court has two clerks who handle all paperwork and filings.

The U.S. Court of Appeals for Veterans Claims can issue the following decisions:

- Remand –The court issues this type of decision most often, and this means the BVA's decision has been overturned and the BVA is required to make a new decision after finishing actions outlined by the court.
- Grant –The court rarely grants the claim and automatically gives the Veteran everything he/she is asking for.
- Deny –The court can also outright deny the claim. If this happens, the Veteran still has the option to appeal to the Federal Circuit, but only in cases where actual VA law is in question. If the case doesn't involve actual question of the VA laws, the Veteran may start over with a new claim to VA.

The court may issue decisions within a few months or may take more than a year. There is no set amount of time for the court to issue a decision. Many times, this period depends upon the type of appeal and the defending attorney for the Secretary. In 2014, the court's annual report stated that the average time between filing an appeal and the court issuing a decision as a whole was 286 days. In cases where a single judge's decision was rendered, the time frame was only 69 days. When an appeal is filed, it is assigned to a judge. It can be reviewed by only one judge, a panel of three judges and although rare it may be heard "en banc" by all nine judges. Most decisions are issued by a single judge. Veterans should remember that the caseload for these judges is quite substantial –nearly 175 per judge were assigned in 2014. Congress enacted the Equal Access to Justice Act in 1980, which states VA will pay attorneys' fees for representation in the Court if the Veteran's case prevails.

For additional information from these government agencies, the following websites may be useful:

- The Court's main website can be found at:  
<https://www.uscourts.cavc.gov/index.php>
- Court forms can be found at:  
<https://www.courtrecords.org/tools/courtforms>
- The VA Benefit homepage can be found at:  
<https://www.ebenefits.va.gov/ebenefits/homepage>
- VA's main website is located at: <https://www.va.gov/>