



National Veterans Affairs and Rehabilitation Commission

1608 K Street, N.W. • Washington, D.C. 20006

K. Robert Lewis, Chairman - Connecticut

Peter S. Gaytan, Director - Maryland

16-08

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United States Court Appeals for the Federal Circuit issues decision in *Haas* case

On August 16, 2006, the United States Court of Appeals for Veterans Claims (CAVC) held in *Haas v. Nicholson* (now *Haas v. Peake*) that Vietnam veterans who served in the waters off Vietnam (“Blue Water” Navy veterans) are entitled to disability benefits for diseases related to exposure to Agent Orange. Please see VA&R Bulletin 20-06, dated August 22, 2006, for additional background information.

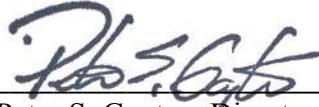
The Department of Veterans Affairs (VA) subsequently appealed the CAVC’s decision to the United States Court of Appeals for the Federal Circuit and also received authorization from the CAVC to stay the adjudication of all Haas-related claims until the appeal is resolved by the Federal Circuit. On May 8, 2008, the Federal Circuit Court issued a decision reversing the decision of the CAVC in *Haas v. Peake*.

What happens now?

The National Veterans Legal Services Program (NVLSP), counsel for Haas, plans to request en banc (full Court) review of the three judge decision. NVLSP will file the petition within twenty-one-days. This could delay implementation of the May 8th decision. Once the Federal Circuit does render a final decision, either the VA or the claimant may petition the U.S. Supreme Court for certiorari within 90 days of the final action of the Federal Circuit.

Since the CAVC issued a stay regarding all Haas-related claims, that stay must be lifted by the CAVC before the VA can adjudicate pending Haas-related claims. In the meantime, advocates are advised, if possible, to help claimants obtain evidence of service on land in the Republic of Vietnam. If a VA regional office should deny a pending Haas-related claim, advocates are advised to appeal to protect the potential earlier effective date in case the Federal Circuit decision is overturned.

Additional information and guidance will be provided as it becomes available. Please direct any questions or concerns to Steve Smithson, Deputy Director for Claims Service, VA&R, at ssmithson@legion.org or (202) 263-2985.



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