The American Legion
For God and Country

bulletin

National Veterans Affairs and Rehabilitation Commission
1608 K Street, N.W. • Washington, D.C. 20006
K. Robert Lewis, Chairman - Connecticut
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Supreme Court Will Not Hear Haas Case

Background

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. *See* VA&R Bulletin 20-06, dated August 22, 2006.

The Department of Veterans Affairs (VA) subsequently appealed the CAVC's decision to the United States Court of Appeals for the Federal Circuit. On May 8, 2008, the Federal Circuit issued a decision reversing the decision of the CAVC in *Haas v. Peake*. *See* VA&R Bulletin 16-08, dated May12, 2008.

On June 23, 2008, the attorneys for Mr. Haas, the National Veterans Legal Services Program (NVLSP), filed a Combined Petition for Panel Rehearing or Rehearing En Banc. On June 30, 2008, The American Legion, Military Order of the Purple Heart, and United Spinal Association filed an Amici Curiae Brief in support of Mr. Haas' petition for rehearing. VA filed its opposition to the petition for rehearing on September 12, 2008, and on October 9, 2008, the Federal Circuit denied the petition for rehearing.

Final Disposition of Haas

On October 17, 2008, Mr. Haas' attorneys filed a Petition for a Writ of Certiorari in the U.S. Supreme Court asking the Court to overturn the Federal Circuit's decision in *Haas* that denied Agent Orange-related VA benefits to Blue Water Vietnam Veterans. *See* VA&R Bulletin, dated October 28, 2008. The American Legion and the other organization noted above filed an Amici Curiae Brief in support of that petition.

On January 21, 2009, the Supreme Court denied the petition for Writ of Certiorari, ending any further legal challenges in the matter of *Haas v. Peake.* The VA is now free to adjudicate Haas-related claims in accordance with the May 2008 Federal Circuit Court decision.

The American Legion's Position

The American Legion has had a longstanding position (resolution) supporting the premise that shipboard service in Vietnam's territorial waters constitutes service in the Republic of Vietnam for the purpose of presumption of exposure to herbicides (Agent Orange) during the Vietnam War. We will continue to seek and support legislation which seeks to clarify the definition of service in the Republic of Vietnam, for the purpose of presumption of exposure to Agent Orange, to include service in the territorial waters offshore.

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National Veterans Affairs and
Rehabilitation Commission