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SCOTUS Postpones Arguments on Agent Orange Case and More

The U.S. Supreme Court postponed oral arguments scheduled for February 25, 2019 in the *Gray vs. Wilkie* case. The case decides if the Department of Veterans Affairs (VA) considered service in Vietnam to be on its land-mass and in its inland waterways, but *not* in open deep-water coastal ports or harbors is arbitrary and capricious.

The hearing was delayed due to the lower court decision in *Procopio vs. Wilkie* in the U.S. Court of Appeals for the Federal Circuit in Washington D.C. The FRA is listed as a "Friend of the Court" by the petitioner Blue Water Navy Veteran Mr. Procopio, who never stepped foot on land in Vietnam but was exposed to Agent Orange during service off the coast of the Republic of Vietnam. Due to this exposure, he developed medical conditions consistent with veterans who served on land and were exposed to Agent Orange. Procopio argued he should be entitled to a presumptive category, and eligible for benefits.

The FRA is not waiting on the courts to prevail on this issue. Members are urged to weigh in on the [FRA Action Center](#).

In related news, Military.com reported the U.S. Supreme Court upheld the Defense Department's ability to prosecute military retirees for crimes they commit, even after retirement. The court recently chose not to hear the case of a retired Marine who was court-martialed for a sexual assault he committed three months after leaving the service in 2015. By not accepting the case, *Larrabee vs. the United States*, the court upheld current law: military retirees are subject to the Uniform Code of Military Justice. The law stipulates, "retired members of a regular component of the armed forces who are entitled to pay" and "members of the Fleet Marine Corps Reserve" are subject to court-martial jurisdiction. The courts rational is retirement is simply a change of military status and retired personnel are subject to recall should the need arise.

The State of Veterans Affairs

The House Appropriations MilConVA Subcommittee recently held a hearing with the Department of Veterans Affairs (VA) Secretary Robert Wilkie, to discuss the state of the VA. Subcommittee

Chairwoman, Rep. Debbie Wasserman Schultz (Fla.) expressed concerns that community care might be used as a "back door effort" to move the VA towards privatization. She also stressed that the implementation of the Electronic Health Records (HER) needs to be done properly and expressed concern that 14 percent of job vacancies at the VA have yet to be filled, including two undersecretaries. Lastly, she discussed mental health and its connections to sexual trauma, PTSD, TBI and suicide.

Wilkie said the three biggest challenges for the VA are: mental health, suicide and veteran homelessness. He pointed out these three issues are often linked. Wilkie stated the VA was in the middle of major modernization and EHR is at the center of the effort. In his testimony he refers to the four priorities of the VA.

- Customer Service and veterans having a positive VA experience is paramount to a measure of success.
- The implementation of the MISSION Act for veterans to have access to the best possible care, including supporting caregivers and utilizing telehealth.
- Business transformation that should include appeals modernization and implementing the Forever GI Bill. Wilkie assured veterans who did not get full GI Bill funds due to IT issues, "will be made whole."
- The VA and Department of Defense (DoD) must collaborate on the EHR, suicide and transition assistance. Wilkie said, "14 out of 20 veterans who die by suicide are not in the VA health care system." The VA will continue to look for new ways to provide care for those most at risk for suicide, which continues to be a major priority for the VA.

DoD/CDC Look at Water Contamination at Bases

The Department of Defense (DoD) recently announced it is teaming up with the Centers for Disease Control to begin a formal review of water contamination on military bases and is expected to continue through 2020. The study will look specifically at the levels of per- and polyfluoroalkyl substances (PFAS) in 10 affected locations. PFAS are chemicals that were used in firefighting foam on bases and are also present in many household products. PFAS have been linked to various cancers and developmental delays for babies and children. The study comes in the wake of a Pentagon report released in 2018 that found dozens of defense installations and surrounding communities had PFAS contaminated groundwater and well water. Sites being reviewed include: Naval Air Warfare Center Warminster, Francis S. Gabreski Air National Guard Base, Shepherd Field Air National Guard Base, Peterson Air Force Base, Eielson Air Force Base, Barnes Air National Guard Base, Reese Technology Center, Stewart Air National Guard Base, New Castle Air National Guard Base, and Fairchild Air Force Base. For more information on this issue [go online](#).

Upcoming Navy Birthdays

The U.S. Navy Reserve celebrates its 104th birthday (March 2, 1915). The United States Navy Reserve, known as the United States Naval Reserve until 2005, has at least one Navy Operational Support Center (NOSC) (formerly Naval Reserve Center) in every state, along with Guam and Puerto Rico.

Next week also marks the 94th Birthday of the Navy Band, established March 4, 1925. The Navy Band continues to inspire patriotism, enhance awareness of our Navy and project a positive image at home and abroad. The FRA also salutes the U.S. Navy Seabees, a group founded on March 5, 1942. The Seabees have been building and fighting for 77 years and their "Can Do" spirit remains as strong as ever.

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