October 9, 2019

VA File Number:

Dear Veterans Representative,

I would like to challenge the information submitted for the C&P examination dated August 28, 2018 through VES in relation to a previously denied claim (dated May 21, 2019).

In regards to the C&P exam dated August 28, 2018, which was an in-person examination. With respect to the examiner, there was minimal communication between myself and the examiner (he didn't speak English). When he spoke he spoke in his native tongue (German). It is not possible that he understood the DBQs and also what he was being asked to perform per VES/VA guidelines if he didn't speak English. I understand that there is no time limit on examinations, but the examination took only 25 minutes for all listed disabilities (bilateral pes planus, Fibromyalgia, bilateral knee/ hip strains, and back). I was motioned only once to stand and signaled to attempt to touch my toes. When I reached my pain threshold I stopped and this was the end of my examination. When performing measurements of ROM/LOM the measurements have to be performed with a Goniometer ***(38 C.F.R. § 4.46 "The use of a goniometer in the measurement of limitation of motion is indispensable in examinations")***. If there were measurements given they were estimates not precise. The medical opinion dated January 11, 2019 (**result of the August 2018 exam**) stated" ***Section III-FLATFOOT (PES PLANUS), it is reported that the veteran did not have pain on manipulation of the feet bilaterally, did not have indications of swelling on use, and did not develop any characteristic calluses on feet due to the flatfoot condition. Additionally, the veteran has not used any arch supports, built up shoes, or orthotics, he has no extreme tenderness of plantar surfaces on one or both feet. The objective examination of the feet also reveals that veteran does not have "evidence of marked deformity of one or both feet," and has "no" marked pronation of one or both feet. The examiner noted that the weight bearing line does not fall over or medial to the great toe on one or both feet. There is no lower extremity deformity other than pes planus, causing alteration of the weight bearing line. The examiner also noted (#3L) that the veteran has "no" inward bowing of the Achilles tendon of one or both feet, and (#3M) there is not "marked inward displacement and severe spasm of the Achilles tendon on manipulation of one or both feet. Despite the examiner's comments based on veteran's subjective report that the condition (pes planus) "worsened over the years," the objective examination findings bilateral feet do not support a worsened condition of the flat feet at the time of examination in 2018, August, at which time findings support only a diagnosis of mild pes planus, with veteran's subjective report of pain and (3G) decreased longitudinal arch height of one or both (feet) on weight-bearing supportive of a pes planus diagnosis.***

It is not possible to come to this conclusion when performing the examination IAW with VA regulations. In order to perform a lower extremity/feet examination normally, it would be of importance to have removed at least my shoes. I never removed any over garments or shoes for the purpose of this exam. The doctor never touched me at any time during the examination. It is seemingly unrealistic to think the doctor performing the examination reviewed my c-file because of the vast difference of opinion given by Dr. Stargardt during her examination/evaluation. So when I read the medical opinion which was a direct reflection of this August 2018 examination, I proceeded to have Independent Medical Opinion performed by an Orthopedic Surgeon (Dr. Stargardt,) (dated May 29, 2019 with a formal review of evidence dated October 8, 2019) who has extensive knowledge of VA examination and evaluation process. All measurement were performed IAW with VA regulations using the Goniometer and all questions were asked and answered in English. The duration for the knee and foot exam/evaluation lasted approximately 4.5 hours. Even though Dr. Stargardt did not have access to my c-file either, she did however review my military service records, post service records, and civilian medical records. Dr. Stargardt's knowledge base is firmly established in Orthopedics I am convinced that more probative weight should have been given to that examination (Dr. Stargardt). Dr. Stargadt's rationale was based solely on advanced field knowledge not internet websites.

In light of this questionable C&P examination and the resulting unfavorable medical opinion which resulted in a denial of service connection of my diagnosed disabilities that were incurred/aggravated from my Honorable military service, I ask that you to reconsider your previous denial and grant service connection.

10-9-19 Michael 6-6