OMB Approved No. 2900-0075
Respondent Burden: 15 minutes

Department of Veterans Affairs

# STATEMENT IN SUPPORT OF CLAIM

**PRIVACY ACT INFORMATION:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

| FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN *(Type or print)* | SOCIAL SECURITY NO. | VA FILE NO. C/CSS - |
|---|---|---|
| | | |

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

SEEKS:

30% RATING, for "direct service connection" for Peripheral Vestibular Disorder: Separately rated from any hearing loss as provided by the "separate rating criteria" note(s) in DC 6204:

A note to DC 6204 explains..."that hearing impairment...is to be separately rated [first] and [then] combined." See 38 C.F.R. § 4.87, DC 6204.

AND:

Under the Individual Disability, AND Higher of Two Evaluations authorities:

"Individual disabilities are assigned separate diagnostic codes." See 38 U.S.C.A. § 1155; 38 C.F.R. § 4.1.

"Where there is a question as to which of two evaluations shall be applied, the higher evaluation will be assigned if the disability picture more nearly approximates the criteria for the higher rating." 38 C.F.R. § 4.7 (1998)

OR:

Direct service connection under the "proximately due to or...result of...injury" authority:

"Service connection may be granted for disability which is proximately due to or the result of a service-connected disease or injury." 38 C.F.R. § 3.310(a).

OR:

Secondary to Chronic Sinusitis, under the "en banc" authority of Allen v. Brown:

"Establishing service connection on a secondary basis requires evidence sufficient to show (1) that a current disability exists and (2) that the current disability was either caused...by a service-connected disability." Allen v. Brown, 7 Vet. App. 439, 488 (1995) (en banc).

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

| SIGNATURE | DATE SIGNED | |
|---|---|---|
| ADDRESS | TELEPHONE NUMBERS *(Include Area Code)* | |
| | DAYTIME | EVENING |

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

AND WHERE:

VA considers ALL THE EVIDENCE "in support," or in "relative equipoise"; which provides the Claimant prevails under the Gilbert v. Derwinski authority, as maybe presently codified:

"In determining whether service connection is warranted, the VA must determine whether the evidence supports the claim or is in relative equipoise, with the veteran prevailing in either event...". 38 U.S.C.A. § 5107, Gilbert v. Derwinski, 1 Vet. App. 49 (1990)

AND WHERE, IF:

Any reasonable doubt exist, it is resolved in favor of the Claimant, per VA regulations:

"Any reasonable doubt regarding a degree of disability will be resolved in favor of the veteran." See 38 C.F.R. § 4.3.

AND BY:

Applying the proper "benefit of the doubt" rule(s) as provided in the Title 38 Statues:

"When the evidence is in relative equipoise, the veteran is accorded the benefit of the doubt." See 38 U.S.C.A. § 5107(b).

AND BY:

Rating the disease/injury if no diagnosis is found, as provided by the "unlisted condition" authority:

"When an unlisted condition is encountered it will be permissible to rate under a closely related disease or injury in which not only the functions affected, but the anatomical localization and symptomatology are closely analogous." 38 C.F.R. § 4.20

AND FURTHER, CONSIDERING IF:

The potential application of the "Extraschedular Evaluation" provisions of Title 38, including 38 C.F.R. § 3.321(b)(1) (2011), which provides procedures for referral or assignment of an extraschedular evaluation.

AND, FINALLY RECOGNIZING:

"In the line of duty" and "Service Connection" mean the same thing:

"The term "service-connected" means that a disease or injury was incurred in the line of duty. See 38 U.S.C. § 101(16) (stating that a service-connected disability is one which is "incurred . . . in the line of duty in the active military, naval, or air service"); Shedden, 381 F.3d at 1166 (explaining that the terms "service-connected" and "incurred in the line of duty" have the same meaning)."

CHARACTERIZED BY:

FREQUENT DIZZINESS AND OCCASSIONAL STAGGERING
from DIRECT TOXIC CHEMICAL EXPOSURE and INJURY IN THE LINE OF DUTY from:

"ACOUSTIC TRAUMA"; "NOISE INDUCED HEARING LOSS"; and EXPSOURE to the TOXIC CHEMEICAL "POLYSTYRENE", from the Traco Inc. CHEMICAL PLANT EXPLOSION, adjacent to Great Lakes, A QUARTER MILE AWAY, which almost knocked me off my feet, where SHOCK WAVES WERE FELT TWO MILES AWAY, and the EXPLOSION IMPACT REVERBERATED into my ears, CAUSING PRESSURE, PAIN, and RINGING in my ears, AND LOSS OF HEARING for approximately 20 minutes".