

No. 21-6311

In forma pauperis

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S. FILED
FEB 14 2022
OFFICE OF THE CLERK

CURTIS GAYLORD -

PETITIONER (Pro Se)

VS.

DENIS R Mc DONOUGH -

RESPONDENT(S)

Secretary of Veterans Affairs

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PETITION FOR REHEARING

NOW COMES, Curtis Gaylord, honorably served veteran, pursuant to Supreme Court Rule 44, hereby submitting his Petition for Rehearing and in support of states as follows:

Statement of the Case

Briefly, this veteran served honorably in the United States Army from 1974 until 1976, please see the Appendix Contents and "Exhibit A" and "Exhibit B" attached hereto, which are a part of the record and nothing new. "Exhibit A" evincing the honorable discharge and separation date of March 16, 1976, "Exhibit B" evincing the date of the original claim filed for the pes planus condition, filed on March 22, 1976 only six (6) days after separation from active service, well within the one (1) year period of 38 U.S.C. Sec. 5110 (b)(1) pertaining to the proper Effective Date. The Department of Veterans Affairs Regional Office (RO) adamantly state that there is, "no evidence of a claim filed by veteran within one (1) year of his separation from active service". This is "obvious error", "clearly erroneous", "fraud" and utterly egregious, especially in light of this veteran, petitioner's exhaustive notification of the original claim and supporting evidence to the RO director Huey Turner, the Board of Veterans' Appeals director Cheryl Mason by certified mail

return receipt but no response, please see the record. Veteran petitioner never asked the Court nor the Federal Circuit for an Early Effective Date, but certainly requested "procedural due process" and his Fifth Amendment Constitutional rights not to be violated. The March 22, 1976 original claim is undebatable and indisputable.

United States Court of Appeals for Veterans Claims

Briefly, the CAVC opined and held erroneously, that veteran petitioner couldn't use the Writ of Mandamus as a substitute for the "regular appellate process". Also arbitrarily and subjective stated that petitioner did not appear for a hearing which is not accurate, true. The CAVC did not apply the TRAC model and element which petitioner didn't argue at the Federal Circuit. Respectfully, the CAVC's denial and dismissal was also an abuse of discretion, in part, that the veteran petitioner's original claim is a "property right" (interest) and is protected under the Fifth Amendment Constitutional rights, please see *Cushman v. Shinseki*, 576 F.3d 1290; *Matthews v. Eldridge*, 424 U.S. 319; *Hudick v. Wilke*, 755 Fed. Appx. 998. Petitioner's rights under the Fifth Amendment are "non discretionary". Under *Cushman* even if a hearing is afforded, if the evidence is "tainted" then rights are violated. In this instant matter under *Hudick* also supra, "procedural due process" is required. That's what this veteran petitioner is rightfully requesting, to no avail.

United States Court of Appeals for The Federal Circuit

Briefly, the Federal Circuit mischaracterized petitioner's requests, again, petitioner requested "procedural due process and fairness" and "due process" under the Fifth Amendment and cited cases, Regulations, statutes, which was to no avail. Petitioner believes that

he is entitled his "due process" rights at the RO, Board, CAVC Federal Circuit and that this Honorable United States Supreme Court has "broad discretion" and possibly a duty and oath to honor and protect the Constitution of the United States of America. To allow the denials and dismissals to stand would so-to-speak add fuel to the VA violating Veterans constitutional right, which are "non discretionary" whether at the RO or Board respectively.

Please see 38 U.S.C. Sec. 7292, especially Sec. 7292(d)(2), this veteran petitioner's appeal absolutely presented a "constitutional" issue. Case law in the record states "to the extent necessary". The Federal Circuit was in error also abused its discretion, petitioner is rightfully entitled to fairness and "due process" under the Fifth Amendment, its non discretionary and clearly constitutional. Petitioner respectfully contend that the Federal Circuit had jurisdiction,

WHEREFORE, veteran petitioner prays that justice will be served, avail.

Respectfully Submitted,
Curtis Gaylord

Dated: February 14, 2022

Curtis Gaylord
103 S. May St.
Joliet IL 60436
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CERTIFICATE OF SERVICE

I, Curtis Gaylord, hereby certify under penalty of perjury that on February 14, 2022, I caused the mailing of a complete copy

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Of his Petition for Rehearing, to the following by Certified Mail
Return Receipt, Joliet, IL, 60436

The United States Supreme Court;

The Solicitor General of the United States, Dept. of Justice

Curtis Gaylord

CERTIFICATE OF PETITIONER (Pro Se)

Pursuant to Rule 44.2, I hereby certify that the foregoing
Petition for Rehearing is presented in good faith and not for delay,
and is limited to the grounds specified in Rule 44.2.

Curtis Gaylord