

**United States Court of Appeals
for the Federal Circuit**

VINCENT DEWAYNE GAYLORD,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2025-1555

Appeal from the United States Court of Federal Claims in No.
1:24-cv-00910-RTH, Judge Ryan T. Holte.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

AFFIRMED

FOR THE COURT

October 15, 2025
Date



Jarrett B. Perlow
Clerk of Court

I want my day in court or a settlement
from the US Army.

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

VINCENT DEWAYNE GAYLORD,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2025-1555

Appeal from the United States Court of Federal Claims
in No. 1:24-cv-00910-RTH, Judge Ryan T. Holte.

ON MOTION

O R D E R

Vincent Dewayne Gaylord moves for leave to proceed
in forma pauperis.

The court notes that the trial court permitted Mr. Gay-
lord to proceed *in forma pauperis*. Thus, he may proceed
in forma pauperis on appeal without further authorization,
and his motion is moot. Fed. R. App. P. 24(a)(3); Fed. Cir.
R. 1(a)(1)(C).

Accordingly,

PER CURIAM.

Vincent Gaylord appeals the decision of the Court of Federal Claims dismissing his complaint for either lack of jurisdiction or failure to state a claim. Because Mr. Gaylord's claims are either time-barred or do not plausibly state a claim for relief, we affirm.

BACKGROUND

Mr. Gaylord served in the United States Army from 1988 to 2002. On December 9, 2002, he was honorably discharged for medical disability and received severance pay. On August 27, 2004, Mr. Gaylord submitted his first application for Combat-Related Special Compensation (CRSC) with Army Human Resources Command (HRC), which denied his request. In 2012, Mr. Gaylord appealed his military disability rating to the Army Physical Disability Review Board, which recharacterized his discharge to show permanent disability retirement. Subsequently, Mr. Gaylord's original honorable discharge order was rescinded, and he was issued new orders retiring him for permanent disability effective December 9, 2002. Mr. Gaylord became eligible for retirement pay in April 2013 and received retirement back pay from 2002 to 2013. However, Mr. Gaylord's retirement back pay was offset by the VA disability compensation he received, which is otherwise known as a VA waiver.

Since 2013, Mr. Gaylord has sought CRSC several times, with each request denied "because [Mr. Gaylord] offered no evidence he incurred a disability while engaged in combat, while performing duties simulating combat conditions, or while performing especially hazardous duties." Appx 2 (quotation marks and citation omitted).¹ This includes his most recent appeal to the Army Board for

¹ "Appx" refers to the Appendix filed by the Government with its Informal Brief, ECF No. 16.

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Correction of Military Records (ABCMR) in May 2024, in which Mr. Gaylord “also sought [c]orrection of his military records to reflect that the Army medically retired him with a combined 60 percent disability rating, on 9 December 2002, so that he can properly calculate his benefits, verify he received his entire disability severance pay, and receive disability retired pay.” *Id.* (alteration in original) (quotation marks and citation omitted). The ABCMR again denied relief.

On June 10, 2024, Mr. Gaylord filed suit in the Court of Federal Claims seeking damages for wrongful discharge, retroactive disability retirement pay, and denial of CRSC. The Government moved to dismiss for lack of subject matter jurisdiction and for failure to state a claim. The Court of Federal Claims first held that it did not have jurisdiction over Mr. Gaylord’s complaint because he “seems to base all his claims upon a violation of 28 U.S.C. § 1343,” which is not a money mandating statute. Appx 6 (citation omitted). While “the lack of [a] money-mandating source of law is sufficient grounds to dismiss the entire [c]omplaint,” Appx 7, the Court of Federal Claims went on to alternatively conclude that Mr. Gaylord’s claims for wrongful discharge and CRSC were jurisdictionally barred by 28 U.S.C. § 2501’s six-year statute of limitations. The Court of Federal Claims also explained that, for Mr. Gaylord’s claim for retroactive disability retirement pay, its “standing and failure-to-state-a-claim analyses are factually intertwined,” and that Mr. Gaylord had failed to both allege an injury in fact and plausibly state a claim for relief. Appx 9.

Mr. Gaylord appeals. We have jurisdiction under 28 U.S.C. § 1295(a)(3).

DISCUSSION

“This court reviews de novo whether the Court of Federal Claims possessed jurisdiction and whether the Court of Federal Claims properly dismissed for failure to state a

claim upon which relief can be granted, as both are questions of law.” *Turping v. United States*, 913 F.3d 1060, 1064 (Fed. Cir. 2019) (quoting *Wheeler v. United States*, 11 F.3d 156, 158 (Fed. Cir. 1993)). On appeal, Mr. Gaylord challenges the dismissal of all three of his claims: (1) damages for wrongful discharge, (2) damages for the denial of CRSC, and (3) retroactive disability retirement pay. We take each issue in turn.

“In a military discharge case, this court and the Court of Claims have long held that the plaintiff’s cause of action for back pay accrues at the time of the plaintiff’s discharge.” *Martinez v. United States*, 333 F.3d 1295, 1303 (Fed. Cir. 2003) (en banc) (collecting cases). “If the plaintiff does not file suit within the six-year limitation period prescribed in 28 U.S.C. § 2501, the plaintiff loses all rights to sue for the loss of pay stemming from the challenged discharge.” *Id.* at 1304. Here, Mr. Gaylord was discharged on December 9, 2002. He filed his claim for wrongful discharge in the Court of Federal Claims on June 10, 2024, more than two decades after his discharge from the Army. Accordingly, Mr. Gaylord’s wrongful discharge claim is barred by the six-year statute of limitations.

Mr. Gaylord contends that his wrongful discharge claim is not time-barred because he “asked the army to correct the unlawful discharge in 2024.” Appellant’s Inf. Reply Br. 5. However, the statute of limitations under § 2501 begins to run at the time the claim accrues. *Martinez*, 333 F.3d at 1303–04 (“That is, the claim accrues ‘at one time, once and for all,’ on the date of discharge.” (citation omitted)). And “[t]his court and the Court of Claims have frequently addressed and rejected the argument that the cause of action for unlawful discharge does not accrue until the service member seeks relief from a correction board.” *Id.* at 1304 (collecting cases). Because Mr. Gaylord was discharged in 2002 and the filing of a request for correction does not toll or restart the limitations period, his claim remains barred under § 2501.

Mr. Gaylord raises several other arguments in support of his wrongful discharge claim. First, he relies on *Holley v. United States*, 124 F.3d 1462 (Fed. Cir. 1997), asserting that “statutory pay continues for unlawful discharge in the Army.” Appellant’s Inf. Br. 1. Second, he contends that the Court of Federal Claims erred in dismissing his claim because under the Tucker Act, it has jurisdiction over claims involving wrongful military discharge.² Third, he asserts a due process violation on the grounds that “there was no formal hearing.” Appellant’s Inf. Br. 3. None of these arguments, however, displace the statute of limitations issue. We thus need not address the merits of these arguments as we affirm the trial court’s dismissal of his wrongful discharge claim as time-barred under § 2501.

Turning next to Mr. Gaylord’s CRSC claim, we hold this claim is also time-barred by the six-year statute of limitations prescribed by § 2501. In general, “if a dispute is subject to mandatory administrative proceedings, the plaintiff’s claim does not accrue until the conclusion of those proceedings.” *Martinez*, 333 F.3d at 1304 (citation omitted). And specifically for military disability retirement cases, the “first competent board rule” “provides that a service member’s claim does not accrue until final action is taken by the first board competent to decide the matter of entitlement, or upon refusal of a service member’s request for such a board.” *Jones v. United States*, 30 F.4th 1094,

² While the Court of Federal Claims held it did not have subject matter jurisdiction over Mr. Gaylord’s claims because he failed to identify a money-mandating statute in his complaint, the Government concedes on appeal, as it must, that the Court of Federal Claims “has jurisdiction over wrongful discharge claims” under the Tucker Act. Appellee’s Inf. Br. 9. Any error by the Court of Federal Claims on this issue, however, is harmless, as we conclude here that each claim must be dismissed on other grounds.

1100 (Fed. Cir. 2022) (citation omitted). The statute on CRSC confers on the Secretary of Defense the authority to “prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree.” 10 U.S.C. § 1413a(d). Consistent with § 1413a(d)—as well as with 10 U.S.C. § 1413a(a) and (e)—the Financial Management Regulation (FMR) provides that “[a] member may not be paid CRSC unless he or she has applied for and elected to receive compensation under the CRSC program by filing an application . . . with the Military Department from which he or she retired.” DoD 7000.14-R, FMR, vol. 7B, ch. 63, ¶ 630401. For Army service members, Army HRC is responsible for reviewing CRSC applications and making eligibility determinations. As CRSC claims are subject to administrative proceedings, a claim for CRSC does not accrue until the conclusion of the first Army HRC proceeding that decides the matter of entitlement to CRSC (or upon the refusal of a request for such a proceeding).

Here, Mr. Gaylord submitted his first CRSC application with Army HRC on August 27, 2004. On November 3, 2004, Army HRC denied Mr. Gaylord’s request for CRSC. Accordingly, Mr. Gaylord’s claim for CRSC started accruing on November 3, 2004. But Mr. Gaylord did not file his CRSC claim with the Court of Federal Claims until June 10, 2024, almost 20 years after the conclusion of the Army HRC proceedings. Thus, we affirm the trial court’s dismissal of his CRSC claim as also time-barred under § 2501.³

³ Mr. Gaylord contends that *Soto v. United States*, 605 U.S. 360 (2025), prohibits applying a statute of limitation to CRSC claims. *Soto*, however, is about the Barring Act’s provision that most settlement claims against the United States are subject to a six-year limitations period

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Finally, we turn to Mr. Gaylord's claim for retroactive disability retirement pay. Under 38 U.S.C. §§ 5304 and 5305, a veteran is prohibited from receiving both military retired pay and VA disability compensation at the same time, unless that veteran retired with 20 or more years of service. See 10 U.S.C. § 1414(b)(2). If a veteran does not qualify to receive both military retired pay and VA disability compensation simultaneously, the veteran must waive his military retired pay by the amount of his VA disability compensation. See 38 U.S.C. § 5305.

Mr. Gaylord, while deemed entitled to disability retirement pay and VA disability compensation, did not serve for 20 years. Thus, he cannot qualify for the 20-year-service exception to the federal prohibition on collecting both military retired pay and VA disability compensation. Therefore, Mr. Gaylord's retirement back pay was waived by the amount of VA disability compensation he received under § 5305. Because Mr. Gaylord cannot plausibly plead facts that would qualify him to simultaneously collect both military retired pay and VA disability compensation, he cannot state a claim to relief for retroactive disability retirement pay that is plausible on its face. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Steffen v. United States*, 995 F.3d 1377, 1379 (Fed. Cir. 2021) ("The Court of Federal Claims

unless another law—like the CRSC statute—confers authority to settle a claim instead, in which case that law displaces the Barring Act's settlement mechanism in its entirety, including its limitations period. *Id.* at 362. In *Soto*, the Barring Act was being used to limit to six years the length of time a veteran could recover past-due benefits for a CRSC claim he was deemed eligible for when the CRSC statute imposed no such defined period of recovery. *Id.* at 366, 372. *Soto*, however, does not speak to the statute of limitations period established by § 2501 for when a plaintiff must file his claim alleging entitlement to CRSC.

may properly grant a motion to dismiss under [Rule of the Court of Federal Claims (RCFC)] 12(b)(6) when a complaint does not allege facts that show the plaintiff is entitled to the legal remedy sought.”).

Mr. Gaylord appears to again rely on *Holley* to argue that he “should have been given [his] full retired pay along with back pay of retirement.” Appellant’s Inf. Br. 2. But *Holley* is not relevant to the issue of whether a former servicemember can concurrently receive VA disability compensation and military retired pay. Mr. Gaylord also contends that, “according to my [sic] secretary of the Army[,] they ordered my retired pay long before there was a VA waiver, so the court should have given relief for pay.” *Id.* But the VA waiver rule existed before Mr. Gaylord’s retirement, see Pub. L. No. 85-857, § 3105, 72 Stat. 1231 (1958), and the underlying pay records show that the VA waiver started applying at the same time he would have first started receiving retirement pay, see Appx 61. We thus affirm the trial court’s dismissal of Mr. Gaylord’s claim for retroactive disability retirement pay pursuant to RCFC 12(b)(6).

CONCLUSION

We have considered Mr. Gaylord’s remaining arguments and find them unpersuasive. For the reasons stated above, we affirm the decision of the Court of Federal Claims dismissing Mr. Gaylord’s complaint.

AFFIRMED

COSTS

No costs.



DEPARTMENT OF THE ARMY
ARMY REVIEW BOARDS AGENCY
261 18TH STREET SOUTH, SUITE 385
ARLINGTON, VA 22202-3531

JAN 11 2013

AR20120022710, Gaylord, Vincent D.

Mr. Vincent D. Gaylord
3710 Southwest 30th Street
Topeka, KS 66614-2835

Dear Mr. Gaylord:

I accept the recommendation of the Department of Defense Physical Disability Board of Review (DoD PDBR) to recharacterize your separation as a disability retirement with the combined disability rating of 60% effective the date of your medical separation for disability with severance pay. Enclosed is a copy of the Board's recommendation and record of proceedings for your information.

The recharacterization of your separation as a disability retirement will result in an adjustment to your pay providing retirement pay from the date of your original medical separation minus the amount of severance pay you were previously paid at separation.

The accepted DoD PDBR recommendation has been forwarded to the Army Physical Disability Agency for required correction of records and then to the U.S. Defense Finance and Accounting Service to make the necessary adjustment to your pay and allowances. These agencies will provide you with official notification by mail as soon as the directed corrections have been made and will provide information on your retirement benefits. Due to the large number of cases in process, please be advised that it may be several months before you receive notification that the corrections are completed and pay adjusted. Inquiry concerning your correction of records should be addressed to the U.S. Army Physical Disability Agency, 2900 Crystal Drive, Suite 300, Arlington, VA 22202-3557.

A copy of this decision has also been provided to the Department of Veterans Affairs.

Sincerely,

Catherine C. Miltrano
Deputy Assistant Secretary
(Army Review Boards)

Enclosure

Printed on Recycled Paper

Here the Secretary of the Army says
to pay.



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

Physical Disability Board of Review
1500 West Perimeter Road, Suite 2720
Joint Base Andrews MD 20762

MEMORANDUM FOR THE DIRECTOR, ARMY REVIEW BOARDS AGENCY

SUBJECT: Physical Disability Board of Review Recommendation on Vincent D. Gaylord
Case Number PD-2012-00526

In accordance with Title 10 §1554a and in compliance with DODI 6040.44, the Physical Disability Board of Review (PDBR) convened on November 30, 2012 to review the disability rating accompanying the medical separation of the covered individual from the United States Army. After carefully reviewing the application and medical separation case file, the PDBR recommended the separation be recharacterized to reflect permanent disability retirement with a combined disability rating of 60% rather than 0%.

I have reviewed the application and Record of Proceedings and I recommend you accept this proposed decision.

As a reminder, a copy of your decisional documents must be provided to the PDBR at the following address:

Physical Disability Board of Review
1500 West Perimeter Road, Suite 2720
Joint Base Andrews MD 20762

Sincerely

LOGRANDE
MICHAEL F. LOGRANDE
015021884
MICHAEL F. LOGRANDE, DAF
President
Physical Disability Board of Review

- Attachments
1. Record of Proceedings
2. Case File



DEPARTMENT OF THE ARMY
UNITED STATES ARMY PHYSICAL DISABILITY AGENCY
2530 CRYSTAL DRIVE
ARLINGTON, VIRGINIA 22202

April 26, 2013

SSG (Ret) Vincent D. Gaylord
3710 Southwest 30th Street
Topeka, KS 66614

Dear SSG Gaylord:

The purpose of this letter is to provide you information concerning corrections of your disability separation records and retirement benefits as a result of the approval by the Deputy Assistant Secretary (DASA) of the Army Review Boards Agency. This approval was based on a recommendation by the Department of Defense Physical Disability Board of Review (PDBR).

a. Your original separation order have been rescinded, and an order permanently retiring you at 60 percent has been published and made retroactive back to the day you separated with disability severance pay. Copies of these orders are enclosed. A DD Form 214 (Certification of Release or Discharge from Active Duty) and a DD Form 215 (Correction to DD Form 214) is also enclosed.

b. The Defense Finance and Accounting Service - Cleveland (DFAS-CL) will provide you permanent retired pay and allowances effective the date of your original disability separation and account for (recoup) any severance pay previously paid. To establish and activate your retired pay account, you must first complete a DD Form 2656 (Data for Payment of Retired Personnel-attached).

Did not
say VA
pay

DFAS will not pay

c. You should immediately contact the nearest installation Retirement Services Officer (RSO) for assistance with completing the DD Form 2656 to activate your retired pay account. It is important that you return a completed copy of this form to DFAS at the following address: Retired and Annuitant Pay, P.O. Box 7130, London, Kentucky 40742-7130. The RSO will also provide you retirement and Survivor Benefit Plan counseling. A listing of all RSOs is available at the following website: <http://www.armyg1.army.mil/RSO/rsos.asp>. If you have difficulty contacting your nearest installation RSO, please call the Army G-1 Retirement Services Office at (703) 571-7232 for assistance.

d. You and your authorized family members are entitled to a Retiree or Dependent United States Uniformed Services Identification and Privilege Card. The card(s) can be obtained by presenting a copy of the enclosed permanent retirement order at any military installation having the capability to issue the card(s). In order to be issued the ID cards, you and your family members will have to be registered in the Defense Enrollment Eligibility Reporting System (DEERS) for which you will also need to provide a copy of your marriage license, birth certificates for any children under the age of 18 (or 23 if they are in college).

If you have any further questions on your retirement orders, please contact SSG Fitzgerald, Captoria, Physical Disability Agency, at (703) 325-2702 or Captoria.p.Fitzgerald.mil@mail.mil.

Approval by Secretary of
the army.

Questions regarding your pay and allowances should be directed to DFAS at 800-321-1080, option 5.

If you have any further questions pertaining to this decision, please contact Mr. Stacy Abrams, Army Review Boards Agency, at (703) 545-5668.

Sincerely,

for Samuel Obayshong

David M. Turban
Chief, Operations Division

Enclosures

If it please the court this is the orders
that the Army gave me when I left the Army
I knew it was wrong but I felt danger so I left
ASAP

CORRECTED COPY

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY, EUROPE
KITZINGEN TRANSITION CENTER, GERMANY
APO AE 09225

ORDERS 267-006

24 September 2002

GAYLORD VINCENT DEWAYNE [REDACTED] SSG Headquarters and Headquarters Company 12TH Aviation Brigade
(WCYPAA) APPO AE 09182

You are discharged from the United States Army
Authority: AR 635-40
Effective Date: 09 December 2002
Component: RA

Additional instructions:

- (a) You must report to the Kitzingen Transition Center on 24 September 2002 at 1430 hours to review DD214 Worksheet. You are authorized 00 PER CENTUM Disability Separation pay in Grade SSG, With 14 YEARS 01 MONTHS 09 DAYS Active service.
- (b) You must report to the Kitzingen Transition Center for final processing on 07 November 2002 at 1030 hours. You must turn in your original Health and Dental Records, Separation Physical, Education Records and DA Form 2648 (ACAP) Worksheet and Clearance Papers. You must have in your possession a valid military ID Card with effective expiration date of: 09 December 2002.
- (c) You must clear Central Processing Facility (Larson Barracks, Building 12, Room 108) prior to your final processing appointment with the Transition Center.
- (d) If you plan to ship personal property at Government expense, contact your local transportation office after receipt of these orders to arrange for shipment. Immediately after arrival, contact the nearest military installation to arrange for delivery.
- (e) Official travel arrangements purchased through a commercial travel office (travel agency) Not under contract to the government is not reimbursable.
- (f) Each traveler is allowed to check-in 2 pieces of baggage free, NOT to exceed 70 pounds per baggage. You may be charged for the movement of excess baggage. In addition, each passenger may hand carry 1 piece of baggage aboard the aircraft, NOT to exceed 62 linear inches.
- (g) You must report to CPF (Larson Bks, Bldg. 12, Rm. 108), Separation Finance (Larson Bks, Bldg. 12 Rm 103), SATO Travel, Transportation and Military Police Customs Sections (Larson Bks, Bldg. 1, 2nd and 3rd Floors) immediately upon receipt of separation orders.
- (h) You are authorized up to 1 year to complete travel, shipment of household goods, unaccompanied hold baggage and privately owned vehicle to home of selection, home of record, place entered active duty or last duty station in connection with this action.
- (i) You are authorized concurrent or early travel of your command sponsored family members:

NAME	RELATIONSHIP	DATE OF BIRTH
N/A		

(j) You must schedule an appointment with the Reserve component Career Counselor (RCCC) at the Reserve Transfer Office, Bldg 12, Rm 009, Larson Kaserne 120 days prior to ETS or Separation Date. Appointments may be scheduled by calling DSN 355-2504. If less than 120 days out, contact RCCC ASAP.

(k) You are required to either complete a separation physical or receive a statement of waiver authenticated by the physical or receive a statement of waiver authenticated by the physician and yourself attesting to the fact that the examination is waivable. This examination will be completed no earlier than 120 days and no later than 30 days prior to separation.

(l) SPECIAL INSTRUCTIONS: YOU ARE AUTHORIZED 30 DAYS PERMISSIVE TDY AND 00 DAYS TRANSITION LEAVE IN CONJUNCTION WITH THIS SEPARATION.

CORRECTED COPY

CORRECTED COPY

ORDERS 267-006 KITZINGEN TRANSITION CENTER APO AE 09225 24 September 2002

FORM ARMY USE

Auth: AR 635-40

ETS: 08 December 2008

HOR: PITTSBURG, KS

Place EAD or OAD: KANSAS CITY, MO

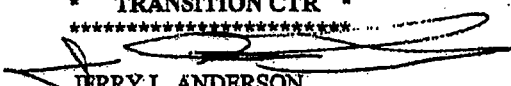
CIC: 231A73

MDC: 7AE3

Avail date: 10 November 2002

Format: 500

* OFFICIAL *
* TRANSITION CTR *


JERRY L. ANDERSON
SENIOR TRANSITION SPECIALIST

DISTRIBUTION:

SSG GAYLORD (5)

106TH FIN OFC (1)

RECORDS SET (2)

RCCC SET (1)

COMANDER, 12TH AVN BDE, APO AE 09182 ATTN: PAC PSNCO (1)

COMMANDER, HHC 12TH AVN BDE, APO AE 09182 (1)

I&O SET (1)

**Inquiries concerning these orders should be directed to the Senior Transition Specialist, Kitzingen Transition Center, DSN 355-2826 or civilian 09321-702826.

CORRECTED COPY

DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT COMMAND - EUROPE
ANSBACH TRANSITION CENTER
UNIT 28614
APO AE 09177

24 April 2013

ORDERS 114-0003

VINCENT, GAYLORD DEWAYNE [REDACTED] SSG 0012AVVHC, (WCYPAA) APO AE 09177

You are released from assignment, and duty because of physical disability incurred while entitled to basic pay and under conditions that permit your retirement for permanent physical disability.

Effective date of retirement: 09 December 2002
Date placed on retirement list: 10 December 2002
Retired grade of rank: SSG
Percentage of disability: 60
DOB: 01 July 1965
Sex: M
Retirement type and allotment code: PERM DISABILITY/10
Component: RA
Statute authorizing retirement: 1201
Other eligible laws: 1372
Disability retirement: 14 years, 5 months, 11 days
Section 1405: 15 years, 3 months, 20 days
Basic Pay: 19 years, 4 months, 0 days
Completed over 4 years of active service as Enl or WO: Y
Disability is based on injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by law: No
Disability resulted from a combat related injury as defined in 26 USC 104: No
Member of an Armed Force on 24 Sep 75: No
Significant awards: Not applicable
Additional instructions: a. Mentally Competent: YES

FOR ARMY USE

Ret list: AUS

Authorized place of retirement: ANSBACH TC APO-AE, GERMANY (WASJ04) ANSBACH
AE 09177

Requested place of retirement: N/A

18 years act Federal svc on 1 Nov 81: Not applicable

HOR: PITTSBURG KS US

Place EAD or OAD: KANSAS CITY MO US

MDC: 7AE3

PEBD: Not applicable

FOR ADDITIONAL INFORMATION CONTACT:

James W. McLemore james.w.mclamore.ctr@mail.mil DSN 467-3296

SDN: VIN4574PG40003

Format: 612

FOR THE COMMANDER:

* OFFICIAL *
* IMCOM-EUROPE *

RICHARD T. LECHNIR
CHIEF, TRANSITION SERVICES

ORDERS 114-0003

ANSBACH TRANSITION CENTER APO. AE 09177

24 April 2013

DISTRIBUTION:

SSG VINCENT (10)

Cdr 0012AVHHC, (WCYPAA) (1)

FINANCE (1)

CPF (1)

HOUSING (1)

TRANSPORTATION (1)

ACAP (1)

MPF (1)

RCCC (1)

ANSBACH TRANSITION CENTER (2)

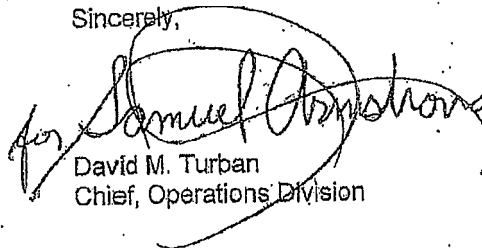
CDR, HRC, ATTN: AHRC-EP, 1600 SPEARHEAD DIVISION AVENUE, FORT KNOX, KY 40122 (1)

INQUIRIES CONCERNING THIS ORDER SHOULD BE DIRECTED TO THE ANSBACH TRANSITION CENTER, DSN: 467-3296.

Questions regarding your pay and allowances should be directed to DFAS at 800-321-1080, option 5.

If you have any further questions pertaining to this decision; please contact Mr. Stacy Abrams, Army Review Boards Agency, at (703) 545-5668.

Sincerely,

A handwritten signature in dark ink, appearing to read "David M. Turban", is written over a circular stamp. The signature is fluid and cursive.

David M. Turban
Chief, Operations Division

Enclosures

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

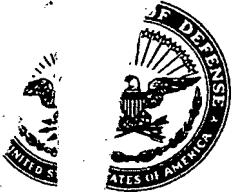
ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY This Report Contains Information Subject to the Privacy Act of 1974, As Amended.					
1. NAME (Last, First, Middle) GAYLORD, VINCENT DEWAYNE		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/RA/		3. SOCIAL SECURITY NUMBER (Also, Service Number if applicable) [REDACTED]	
4. MAILING ADDRESS (Include ZIP Code) 3015 SE IOWA TOPEKA, KS 66607					
5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW:					
ITEM NO.	CORRECTED TO READ				
	SEPARATION DATE ON DD FORM 214 BEING CORRECTED: 2002/12/09				
18	DELETE: DISABILITY SEVERANCE PAY--\$62457.20				
23	RETIREMENT				
25	AR 635-40, PARA 4-24B(1)				
26	SFJ				
27	4				
28	DISABILITY, PERMANENT//NOTHING FOLLOWS				
6. MEMBER REQUESTS COPY 6 BE SENT TO (Specify state/locality) KS OFFICE OF VETERANS AFFAIRS ☒ YES ☐ NO					
7. MEMBER REQUESTS COPY 3 BE SENT TO THE CENTRAL OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS (WASHINGTON, DC) ☒ YES ☐ NO					
7. DATE (YYYYMMDD)	8. OFFICIAL AUTHORIZED TO SIGN		d. SIGNATURE		
20130425	a. TYPED NAME (Last, First, Middle Initial) ROBERT BORGER	b. GRADE GS07	c. TITLE HUMAN RESOURCE ASST	SIGNED BY: BORGER, ROBE RT. DEAN.1140908548	

DD FORM 215, AUG 2009

PREVIOUS EDITION IS OBSOLETE.
GENERATED BY TRANSPROC

SERVICE-2



DEFENSE FINANCE AND ACCOUNTING SERVICE
U.S. Military Retired Pay
8899 E 56th Street
Indianapolis, IN 46249-1200
www.dfas.mil/retiredmilitary.html

46361260
November 25, 2020

SSG Vincent Dewayne Gaylord, USA (Ret)
3710 SW 30th Street
Black Lives Matter
Topeka KS 66614

Dear Sergeant Gaylord:

Thank you for your recent inquiry about the computation of your retired pay. The Defense Finance and Accounting Service appreciates the opportunity to assist you in managing your retired pay account.

Retired pay for members placed on the Permanent Disability Retired List (PDRL) is calculated using the formula shown on the enclosed worksheet. Please review the worksheet carefully for an explanation of the methods used to calculate (PDRL) retired pay.

Please note that because your retired pay is based on your active duty records, any change which will affect the calculation of your pay must be initiated by the Army Human Resource Command. A change in your official Army records is made only after an administrative examination of the evidence is approved by the Army Human Resource Command. A request for any change should be sent to:

☒ Army Human Resource Command of Excellence Support Division, St. Louis 1 Reserve Way St. Louis, MO 63132-5200	☐ Air Force Military Personnel Center SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX. 78150-4742	☐ Navy/Marine Personnel Command PERS - 24 5720 Integrity Drive Millington, TN 38055
--	--	--

Changes made to your Army records will be effective from the approval date by the Army Human Resource Command. A copy of the authorization letter will be sent to our office by the Army Human Resource Command upon their determination of your request.

We thank you for your service to our country. Further information about retired military pay can be found at our website. You can also contact one of our customer care representatives at 800-321-1080 or 216-522-5955, between 8:00 a.m. and 5:00 p.m., Eastern Standard Time, Monday through Friday, write to us at the address above, or fax to 800-469-6559.

Sincerely,

N. Torres
Military Pay Technician
Retired and Annuitant Pay

Enclosure:
As stated

support of the answer; (3) be represented by an attorney or other representative; and (4) a written decision and the specific reasons therefor at the earliest practicable date.

Before an agency imposes a suspension for more than 14 days, a change to lower grade, reduction in pay, or a removal action, an employee is entitled to: (1) at least 30 days' advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action; (2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; (3) be represented by an attorney or other representative; and (4) a written decision and the specific reasons therefor at the earliest practicable date. The law also provides that for these more serious adverse actions, once the action has taken effect, the employee is entitled to file an appeal with the Merit Systems Protection Board.

While a legislature can decide whether to grant property, the Constitution determines the degree of legal process and safeguards that must be provided before the Government may take away that property. The U.S. Supreme Court has repeatedly held that, when a cause is required to remove a public employee, due process is necessary to determine if that cause has been met. Neither Congress nor the President has the power to ignore or waive due process.

Due process "couples" the pre- and post-deprivation processes, meaning that the more robust the post-deprivation process (i.e., a hearing before an impartial adjudicator), the less robust the process must be before the action occurs. However, at a minimum, due process includes the right to: (1) be notified of the Government's intentions; and (2) receive a meaningful opportunity to respond before the action takes place.

Congress has enacted the procedural rules described above to help ensure that adverse actions are taken in accordance with the Constitution and for proper cause. Due process – and the rules that implement it – are in place for everyone, not only for the few problem employees who will inevitably appear in any workforce of more than a

ATTENTION TO CLEAK: PLEASE FILE AND PLEASE SEND THIS TO PANNEL
Page 1

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

VINCENT DEWAYNES GAYLORD

Paintiff-Appellant

NO. 25-1555

09/07/2025

v.

UNITED STATES

Defendant-Appellee

**MEMORANDUM IN LIEN OF ORAL ARGUMENT THE GOVERNMENT
STATES THAT MY DISABILTY AND SERVICE CONNECTED IS THE SAME**

My disability and service connected are not the same, for I get my VA compensation for disability and my retirement is different than my disability. These are two types of pay, for my retirement started in 2002, and my VA disability started in 2005.

I was service connected by being discriminated against in the US Army, and then I went to the VA to get my VA compensation.

The us court of federal claims has the power to decide and award military pay claims for wrongful discharge, and in my case incorrect retirement benefits. This power is derived from the Tucker Act (28 U.S.C. § 1491. (As you can see there is a hand written dated on 10/10/2024 to the US federal claims court).

Due process

If I had been correctly retired in 2002, with a sixty percent disability rating, and if my retirement orders had not been kept from me in 2002, I would not be fighting this in court. If I had my chance to argue this in a formal briefing, I would not be fighting this in court.

The Government states time bard

This is not time bard because I was never aware of my retirement orders, dated with affective date until 2024. My argument is that how could I have fought this matter years ago when I only learned about my retirement orders in 2024. This to me is more of a crime then timed bard, because records were kept from me many of years.

JURISDICTIONAL

The court of Federal Claims has jurisdiction to review judgment, because of Tucker Act claim's asserting military discharge according to holly v. United States. The trial court even said in their own word, that if the discharge is wrongful, then the statutory right to pay continues. The trail court jurisdiction over wrongful discharge claims is contradicting their own statement, when they say they have not jurisdiction of wrongful discharge claims.

My counsel even gives you the information about my army discharge that was given to me instead of my retirement. In 2002, I was discharged with a zero percent instead of my 60 percent retirement, which was not disability, it was service connected retirement do to discrimination. I never did get a chance to have my formal hearing concerning this matter in 2002, but instead the army gave me a zero percent discharge are made me take the discharge and sent me home. I never received the army retired orders till 2024, which has been a year ago.

This is why I state my claim of unlawful discharge and the statutory pay continues. I would have not have applied for the VA benefits if I was correctly retired in 2002.

I feel that I should be receiving retired pay based on, (HOLLY v. US). On the grounds that I was never given a proper discharge, and never was given due process for having the chance for a formal hearing.

Government states that I never mention a claim to the US Federal claims court

The claim was mentioned, for the US Federal claims court did not take this into account because they want to just dismiss m this case because it has something to do with discrimination. I hand written my statement to the US Federal claims court stating that " if the United States Court of Federal claims has recognized that if you are, or I am wrongfully discharged, my statutory right to pay continues. I am entitled to back pay as well. (Holly v. US). 124 F, 3d 1462. 1465.

My counsel even gives you the information about my army discharge that was given to me instead of my retirement. In 2002, I was discharged with a zero percent instead of my 60 percent retirement, which was not disability, it was service connected retirement due to discrimination. I never did get a chance to have my formal hearing concerning this matter in 2002, but instead the army gave me a zero percent discharge and made me take the discharge and sent me home. I never received the army retired orders till 2024, which has been a year ago.

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How can I have a VA waiver when
I never recieved my VA compensation until
8 March 2005

LAW OFFICES OF

CARPENTER CHARTERED

P.O. BOX 2099

1525 S. TOPEKA BOULEVARD

TOPEKA, KANSAS 66601-2099

TELEPHONE: 785-357-5251

FACSIMILE: 785-357-4902

KENNETH M. CARPENTER
Chief Executive Officer

GLEND A S. HERL
Chief Operating Officer

SARA N. HUERTER

March 8, 2005

Wayne Hill
Veterans Service Center Manager
Department of Veterans Affairs
Regional Office
5500 East Kellogg
Wichita, KS 67218-1698

RE: Gaylord, Vincent D.
C-File:
SSN: [REDACTED]
DOB: 1/7/65

BENEFIT SOUGHT:
Entitlement to disability compensation for a psychosis.

Dear Mr. Hill:

FORMAL CLAIM

I am submitting a properly executed VA Form 22a on behalf of the above-referenced veteran. Please accept this letter as a formal claim on behalf of Mr. Gaylord for entitlement to disability compensation for psychosis. Mr. Gaylord is submitting a VA Form 21-526 with this claim. Please note that I am only representing Mr. Gaylord on his claim for disability compensation for a psychosis.

Retired
My ret effective date was 09 DEC 2002

This is unlawful discharge

FORMAL CLAIM

FORMAL CLAIM

March 8, 2005

Page 2

RE: Gaylord, Vincent D.

C-File:

SSN: [REDACTED]

Mr. Gaylord served in the United States Army from November 1, 1988 to December 9, 2002. Mr. Gaylord's military occupational specialty was a chemical operation specialist and a food service specialist. He had foreign service in the Persian Gulf.

In support of his claim, Mr. Gaylord submits the following information:

1. His DD 214, which notes that Mr. Gaylord served on active duty from November 1, 1988 until December 9, 2002, and was given an honorable discharge for reason of disability. (Exhibit 1).
2. A Service Medical Record dated May 14, 2002, noting that Mr. Gaylord initially sought psychiatric treatment in November of 2001, and giving an Axis I diagnosis of delusional disorder. This record also notes that this condition was incurred in the line of duty and that his global assessment of functioning was 50. (Exhibit 2).
3. A September 28, 2004 progress note by Dr. Neelofar Khan giving an Axis I diagnosis of Psychosis, NOS and a GAF of 45, which gives a history of psychiatric symptoms starting in service. (Exhibit 3).

Mr. Gaylord is submitting a fully developed and completely documented claim for the entitlement to disability compensation for a psychosis. Mr. Gaylord's service medical records, enclosed herein, document the incurrence of a chronic psychiatric disorder while in service.

To date, I have not received a copy of Mr. Gaylord's claims file, which I have requested twice. Therefore, I have been unable to verify that Mr. Gaylord's entrance exam is negative for any pre-existing psychiatric disorder. However, I currently believe this to be true. If the entrance exam is negative for any pre-existing psychiatric disorder or any current psychiatric problems, he is entitled to the presumption of sound condition. See 38 U.S.C. § 1111. Based on my records, there is no clear and unmistakable evidence available that rebuts this presumption.

FORMAL CLAIM

FORMAL CLAIM

How can I have a VA waiver when
I never recieved my VA compensation until
8 March 2025

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March 8, 2005

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Department of Veterans Affairs
Regional Office
5500 East Kellogg
Wichita, KS 67218-1698

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SSN: ~~123-45-6789~~
DOB: 1/7/65

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my ret effective date was 09 DEC 2002

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FORMAL CLAIM

FORMAL CLAIM

March 8, 2005

Page 2

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C-File:

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FORMAL CLAIM

FORMAL CLAIM

An injury and disease
with me of discrimination

March 8, 2005

Page 3

RE: Gaylord, Vincent D.

C-File:

SSN: 518-68-1377

During service, Mr. Gaylord sought treatment for psychiatric problems. Mr. Gaylord exhibited symptoms of paranoia and depression. A psychiatrist diagnosed him with delusional disorder, a psychosis, and noted that the condition was considered a line of duty disability. This examiner also noted that Mr. Gaylord should seek continued treatment upon discharge from the military.

Mr. Gaylord's post-service diagnoses are psychosis, delusional disorder per history, and rule out schizophrenia. The September 28, 2004 medical record indicates that Mr. Gaylord has been experiencing symptoms of paranoia since his discharge from service. There is no reason to believe that the psychoses for which Mr. Gaylord is currently seeking treatment are not the same conditions as the in-service diagnosis of delusional disorder. The post-service medical records, enclosed herein, document that Mr. Gaylord has been suffering from a psychosis since his military service. The record evidences that Mr. Gaylord has a current disability from a psychosis.

In addition, the claimant asserts that the VA is obligated to afford him the benefit of 38 U.S.C. § 105(a). The United States Court of Appeals for the Federal Circuit, in Shedden v. Principi, 381 F.3d 1163 (Fed.Cir. 2004), held that § 105(a) creates a presumption of service connection when "[a]n injury or disease [was] incurred during active military, naval, or air service . . . unless such injury or disease was the result of the person's own willful misconduct or abuse of alcohol or drugs." Shedden, 381 F.3d at 1166. In Shedden, the Federal Circuit noted that while § 105(a) establishes a presumption that the condition incurred during active duty is service-connected, the veteran seeking compensation must still show the existence of a present disability and a causal relationship between the present disability and the disability incurred during active duty. Shedden, 381 F.3d at 1167. However, such causal relationship may also be established by a continuity of symptomatology under 38 C.F.R. § 3.303(b).

Accordingly, under 38 U.S.C. § 105, a veteran with a disease or injury which is incurred during active military service is entitled to a presumption of service connection. This statute, by providing a presumption of service connection, affords a veteran the luxury of not having to produce specific evidence to establish

FORMAL CLAIM

FORMAL CLAIM

March 8, 2005

Page 4

RE: Gaylord, Vincent D.

C-File:

SSN: [REDACTED]

the point at issue. See Routen v. West, 142 F.3d 1434, 1440 (Fed.Cir. 1998). Notwithstanding this luxury, the medical evidence submitted by the claimant does establish the relationship between his post-service disability and his in-service disability. Furthermore, the VA cannot rebut the presumption of service connection because there does not exist any evidence, let alone clear and convincing evidence, to rebut that presumption.

Mr. Gaylord is submitting a claim for a psychiatric disorder, which is relatable back to service. Thus, the record contains the requisite or predicate evidence necessary to trigger the 38 U.S.C. § 105(a) presumption of service connection for a psychosis. In the instant matter, Mr. Gaylord has provided competent medical evidence linking the current disability to the in-service psychiatric disability.

When the presumption of service connection is triggered, no less than a showing of clear and convincing evidence to the contrary is sufficient to rebut the same. The evidence of record is inadequate as a matter of law to rebut the presumption, entitling Mr. Gaylord to a grant of service connection for psychosis. Because the record contains the predicate evidence necessary to trigger the statutory presumption of service connection, Mr. Gaylord is entitled to the presumption unless the evidence of record contained the requisite evidence to rebut the presumption.

Therefore, pursuant to 38 C.F.R. § 3.303(a), the claimant is entitled to disability compensation for a psychosis. In addition, he is entitled to disability compensation for psychosis under 38 C.F.R. § 3.303(b), based upon the continuity of symptomatology of a psychosis since discharge from service.

Before the VA acts to deny this claim, the claimant demands that he be informed of the evidence necessary to substantiate his claim, if the VA does not believe that this claim is fully and completely documented. Specifically, Mr. Gaylord demands that the VA afford him up to one year to submit the evidence necessary, as identified by the VA, to substantiate his claim for entitlement to disability compensation for psychosis.

FORMAL CLAIM

FORMAL CLAIM

March 8, 2005

Page 5

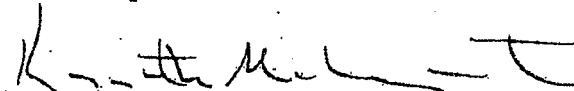
RE: Gaylord, Vincent D.

C-File:

SSN: [REDACTED]

Otherwise, at your earliest convenience, please prepare a rating decision awarding disability compensation for a psychosis to Mr. Gaylord. I look forward to receiving your favorable decision at your earliest possible convenience.

Sincerely,


Kenneth M. Carpenter

KMC:TC/slj

Enclosures:

22a

VA Form 21-526

Exh 1 - DD 214.

Exh 2 - Service Medical Record dated 05/14/02.

Exh 3 - Progress note by Dr. Neelofar Khan dated 09/28/04.

cc: Mr. Vincent D. Gaylord (w/o enc.)

M:\VA\Gaylord.V\FrmIClm.SH

FORMAL CLAIM

FORMAL CLAIM

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

VINCENT DEWAYNE GAYLORD,

Plaintiff-Appellant,

v.

No. 25-1555

UNITED STATES,

Defendant-Appellee.

DEFENDANT-APPELLEE'S INFORMAL BRIEF AND APPENDIX

Pursuant to Federal Circuit Rule 28(g) defendant-appellee, the United States, respectfully submits this informal brief and appendix in response to the informal brief filed by plaintiff-appellant, Vincent D. Gaylord. The Court of Federal Claims addressed each of Mr. Gaylord's claims in detail, concluding that each claim must be dismissed for lack of jurisdiction or failure to state a claim, or both. On appeal, Mr. Gaylord offers no reason to question the trial court's analysis, and the judgment should be affirmed.

STATEMENT OF THE CASE

Mr. Gaylord served in the U.S. Army from 1988 to 2002, when he was discharged honorably due to medical disability (specifically, delusional disorder, right elbow pain and chronic left ankle pain). Appx1-2. Mr. Gaylord was paid disability severance pay. Appx2. In 2012, Mr. Gaylord appealed his military disability rating to

the Army Physical Disability Review Board (PDRB). Appx2. The PDRB recommended recharacterization of Mr. Gaylord's discharge to show permanent disability retirement with a combined disability rating of 60 percent for a delusional disorder condition, right elbow pain, and chronic left ankle pain. Appx2. As a result of this determination, Mr. Gaylord's separation order was rescinded, and in April 2013, he was issued new orders retiring him for permanent disability effective December 9, 2002, the date of his original medical separation date. Appx2. In addition to his medical retirement, Mr. Gaylord receives disability compensation from the Department of Veterans Affairs (VA). *See* Appx2-3. Finally, beginning in 2004, Mr. Gaylord sought combat related special compensation (CRSC) from the Army Human Resources Command (HRC)'s CRSC Branch eleven times, all of which were denied. Appx2.

Mr. Gaylord filed a complaint at the Court of Federal Claims, asserting the following claims: (1) the Army wrongfully discharged him in violation of 28 U.S.C. § 1343; (2) the Army wrongfully failed to pay him disability retirement pay in 2013 retroactive to his discharge in 2002; and (3) the Army wrongfully refused to pay him CRSC. Appx18-21. The trial court determined that his wrongful discharge and CRSC claims are barred by the statute of limitations. Appx10-12. The trial court also

determined that Mr. Gaylord lacked standing to pursue his disability retirement claim and that Mr. Gaylord failed to state a claim, in any event.¹ Appx7-9.

This appeal followed.

JURISDICTIONAL STATEMENT

The Court has jurisdiction to review the final judgment of the Court of Federal Claims under 28 U.S.C. § 1295(a)(3).

STANDARD OF REVIEW

This Court reviews *de novo* the trial court's dismissal of a complaint for lack of subject matter jurisdiction and for failure to state a claim. *Res. Conservation Grp., LLC v. United States*, 597 F.3d 1238, 1242 (Fed. Cir. 2010); *B.H. Aircraft Co. Inc. v. United States*, 89 F.4th 1360, 1363 (Fed. Cir. 2024). Underlying factual findings are reviewed for clear error. *Id.* at 1361. "An appellate court can affirm a decision of the trial court upon any ground supported by the record." *Orion Tech., Inc. v. United States*, 704 F.3d 1344, 1350 (Fed. Cir. 2013) (citations omitted).

QUESTIONS AND ANSWERS

1. Has the appellant ever had another case in this Court?

No. We are not aware of any prior appeals by Mr. Gaylord to this Court.

2. Did the trial court incorrectly decide or fail to take into account any facts? If yes, what facts?

¹ As a threshold matter, the trial court also determined that Mr. Gaylord's complaint must be dismissed because he fails to identify a right to money damages found in the Constitution, a statute or Government regulation, or a contract. Appx7 (quoting *Folden v. United States*, 379 F.3d 1344, 1345–55 (Fed. Cir. 2004)).

No. The Court of Federal Claims correctly accounted for the relevant facts in dismissing Mr. Gaylord's complaint for lack of jurisdiction and failure to state a claim upon which relief can be granted. Indeed, the trial court dismissed the case based on legal deficiencies with the complaint and had no occasion to decide any potential factual disputes.

In his informal brief, Mr. Gaylord responds to this question by raising a new legal argument for the first time, that "according to *Holly v. US* the Statutory pay continues for unlawful discharge in the Army. The Court did not direct this to my knowledge." Gaylord Br. at 1. We understand Mr. Gaylord's reference to be to *Holley v. United States*, 124 F.3d 1462 (Fed. Cir. 1997). Mr. Gaylord's citation to *Holley* provides no basis to reverse the trial court's decision.

As a threshold matter, Mr. Gaylord did not raise any argument regarding *Holley* at the Court of Federal Claims, and thus his argument is waived on appeal. See *San Carlos Apache Tribe v. United States*, 639 F.3d 1346, 1355 (Fed. Cir. 2011). Moreover, *Holley* is legal authority, and thus not a fact for the trial court to consider. Even if his argument were not waived (or was responsive to this question), it does not help Mr. Gaylord. In *Holley*, the Court reversed a decision of the Court of Federal Claims that had awarded back pay, reinstatement, and associated benefits to a probationary military officer who was separated from the Army for misconduct. 124 F.3d at 1463. The Court determined that Mr. Holley's discharge did not violate his statutory, regulatory, or constitutional rights. *Id.*

Mr. Gaylord cites *Holley* for the proposition that “the statutory pay continues for unlawful discharge in the Army.” Gaylord Br. at 1. Mr. Gaylord appears to be relying on *Holley*’s statement that “[i]f the discharge was wrongful the statutory right to pay continues.” 124 F.3d at 1465. That statement is irrelevant in the context of Mr. Gaylord’s case. We did not assert and the trial court did not hold that a right to pay is terminated upon a wrongful discharge. Instead, the trial court correctly dismissed Mr. Gaylord’s wrongful discharge claim as time barred. Appx10. Indeed, “[i]n a military discharge case, . . . the plaintiff’s cause of action for back pay accrues at the time of the plaintiff’s discharge.” *Martinez v. United States*, 333 F.3d 1295, 1303 (Fed. Cir. 2003); *Young v. United States*, 529 F.3d 1380, 1383 (Fed. Cir. 2008) (“[A] cause of action for monetary losses resulting from a wrongful discharge accrues from the date of discharge.” (citing *Martinez*, 333 F.3d at 1310)). Mr. Gaylord was discharged in 2002, Appx45, more than twenty years prior to filing his complaint. The statute of limitations for filing a wrongful discharge claim is six years. 28 U.S.C. § 2501 (“Every claim of which the United States Court of Federal Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues.”). Accordingly, Mr. Gaylord’s wrongful discharge claim was correctly dismissed, and *Holley* does not change the analysis.

3. Did the trial court apply the wrong law? If yes, what law should be applied?

No. The Court of Federal Claims applied the correct law to determine that the

court does not have jurisdiction and that the complaint fails to state a claim and therefore dismissing Mr. Gaylord's claims.

Mr. Gaylord alleged three claims in his complaint: (1) wrongful discharge; (2) failure to pay disability retirement pay, including retroactive disability retirement pay from 2002 to 2013; and (3) wrongful denial of CRSC. As explained above, the trial court applied the correct law in determining that Mr. Gaylord's wrongful discharge claim was barred by the statute of limitations. Similarly, as explained below, the trial court correctly dismissed Mr. Gaylord's CRSC claim and claim for disability retirement pay.

The trial court correctly concluded that Mr. Gaylord's CRSC claim is barred by the statute of limitations. Appx10-12. When a current or former service member is not entitled to a benefit until a military board has determined that the service member is entitled to that benefit, the service member's claim for that benefit generally accrues when the first military office that is competent to pass on the eligibility for that benefit "hears or refuses to hear the claim." *Chambers v. United States*, 417 F.3d 1218, 1224 (Fed. Cir. 2005). This rule applies to CRSC claims because, consistent with 10 U.S.C. § 1413a(a), (d), and (e), the Financial Management Regulation (FMR) provides that a "member may not be paid CRSC unless he or she has applied for and elected to receive compensation under the CRSC program by filing an application on Department of Defense (DD) Form 2860, Claim For Combat-Related Special Compensation (CRSC), with the Military Department from which he or she retired."

DoD 7000.14-R, FMR, vol. 7B, ch. 63, ¶ 630401, Appx70.

After becoming eligible for retired pay in April 2013, Mr. Gaylord filed a request for CRSC with Army HRC—the Army office created pursuant to 10 U.S.C. § 1413a(d) and the FMR to adjudicate CRSC claims—in June 2013. Appx49. That request was denied in July 2013. Appx54. Accordingly, the first competent administrative body denied Mr. Gaylord's claim in July 2013, and his claim for CRSC accrued no later than that date. The statute of limitations for this claim is six years. 28 U.S.C. § 2501. Because he did not file his complaint until more than ten years after his claim accrued, the claim is barred by the statute of limitations, as the trial court held. Appx11.

Finally, the trial court correctly held Mr. Gaylord lacks standing to pursue his disability retirement claim and also failed to state a claim for his disability retirement claim. Appx7-9. Under 38 U.S.C. §§ 5304-5305, a veteran is prohibited from collecting both military retired pay and VA disability compensation simultaneously, unless the veteran qualifies to receive both their military retired pay and VA disability compensation concurrently under 10 U.S.C. § 1414, which requires 20 years of qualifying service for members retired for disability under Chapter 61 of Title 10. 10 U.S.C. § 1414(b)(2). If the member does not qualify to receive both military retired pay and VA disability compensation concurrently, the member must waive their military retired pay, dollar-for-dollar, by the amount of their VA disability compensation. *See* 38 U.S.C. § 5305.

Mr. Gaylord's pay records show that he is receiving the retirement pay he seeks in his complaint. Appx61-63. However, because he did not serve for 20 years, that pay is offset by the amount of his VA disability compensation. Appx61-63. Accordingly, Mr. Gaylord lacks standing because he is receiving the pay he asks for and thus suffers no injury in fact. *Paradise Creations, Inc. v. UV Sales, Inc.*, 315 F.3d 1304, 1308 (Fed. Cir. 2003) (holding that to establish standing, "the plaintiff must allege that it has suffered an injury in fact"). He also fails to state a claim because his retirement pay is correctly offset by his VA disability compensation. 10 U.S.C. § 1414(b)(2); 38 U.S.C. § 5305.

In response to this question, Mr. Gaylord states that "the statutory pay continues for unlawful discharge so I should have been given my full retired pay along with back pay of retirement." Gaylord Br. at 2. Like the previous question, Mr. Gaylord again cites "*Holly v. US.*" *Id.* As explained above, the statement in *Holley* that Mr. Gaylord relies on is not relevant to this case. *Holley* had no occasion to decide whether a former servicemember can concurrently receive VA disability compensation and medical retirement pay. Instead, as the trial court explained, that analysis is governed by 10 U.S.C. § 1414(b)(2) and 38 U.S.C. § 5305, which requires medical retirement pay be offset by VA disability compensation. Appx7-9.

4. Did the trial court fail to consider important grounds for relief? If yes, what grounds?

No, the Court of Federal Claims did not fail to consider important grounds for

relief.

In his informal brief, Mr. Gaylord states that “according to my secretary of the Army they ordered my retired pay long before there was a VA waiver, so the court should have given relief for pay.” Gaylord Br. at 2. This argument misses the point. The “VA waiver” rule existed well before Mr. Gaylord’s medical retirement. Further, Mr. Gaylord’s pay records reflect that the “VA Offset” began applying on January 1, 2003, when he began receiving compensation from the VA. Appx61. In short, Mr. Gaylord is prohibited from collecting both retired pay and VA disability compensation simultaneously, and his pay records reflect a correct application of that rule. 10 U.S.C. § 1414(b)(2); 38 U.S.C. § 5305.

**5. Are there other reasons why the trial court’s decision was wrong?
If yes, what reasons?**

No. As explained above, the Court of Federal Claims correctly dismissed Mr.  Gaylord’s claims because the court does not possess subject-matter jurisdiction and the complaint fails to state a claim for which relief may be granted.

In his informal brief, Mr. Gaylord states that “the court’s decision was wrong because they have jurisdiction. Tucker Act claims asserting wrongful military discharge. (Holley v. United States 1997). If the discharge was wrongful the statutory right to pay continues.” Gaylord Br. at 2. We do not contest that the trial court, in general, has jurisdiction over wrongful discharge claims. However, as explained above, Mr. Gaylord’s wrongful discharge claim was dismissed because it was filed

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF. The filing will also be served by U.S. Mail at the following address:

Vincent Dewayne Gaylord
3710 SW 30th Street
Topeka, KS 66614

/s/ Kyle S. Beckrich
KYLE S. BECKRICH

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DEPARTMENT OF THE ARMY
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS
251 18TH STREET SOUTH, SUITE 385
ARLINGTON, VA 22202-3531

May 23, 2024

AR20230004558, Gaylord, Vincent D.

Mr. Vincent D. Gaylord
3710 SW 30th Street
Topeka KS 66614-2835

Dear Mr. Gaylord:

Pursuant to your request for reconsideration of ABCMR Docket Number AR20210006799, the Army Board for Correction of Military Records (ABCMR) reconsidered your case on 14 May 2024. I regret to inform you that the Board denied your request for relief. A copy of the Board's Record of Proceedings which explains the Board's reasons for denying your request is enclosed.

The decision in your case is final and final action has been directed in this matter under the provisions of Section 1552 of Title 10, United States Code and Army Regulation 15-185. Since your application has now been reconsidered, the Board will not again consider this same matter unless your request is supported by relevant materials not previously presented to or considered by the Board.

A copy of the Board's decision and proceedings has been furnished to the counsel you listed on your application, Mr. Wojciech Komacki Esq, Pentagon Law Office, 1629 K Street, Suite 300, Washington DC 20006.

Sincerely,

5/23/2024

X 

Joseph Lister

Director

Signed by: LISTER.JOSEPH.PATRICK.1164786028

Enclosure



DEPARTMENT OF THE ARMY
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS
251 18TH STREET SOUTH, SUITE 385
ARLINGTON, VA 22202-3531

May 20, 2024

AR20230004558, Gaylord, Vincent D.

Mr. Wojciech Kornacki Esq
Pentagon Law Office
1629 K Street, Suite 300
Washington DC 20006

**Additional material
from this filing is
available in the
Clerk's Office.**