

**Law Review 1147**  
**Update – May 2012**

**Judicial Remedy for VA Tardiness?**

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**11.0—Veterans' Claims**

On May 7, 2012, a federal appeals court reversed the ruling that the U.S. Department of Veterans Affairs must overhaul how it cares for veterans with combat-related mental health care illnesses.

By a 10-1 decision, a panel of the 9th U.S. Circuit Court of Appeals in San Francisco said it could not conclude that the VA's treatment of veterans, which sometimes causes claims to remain unaddressed for several years, was unconstitutional.

The panel said only Congress or the President had authority to direct changes to speed up how veterans are treated. Nonprofit groups contended the VA contributed to the despair that led to roughly 6,500 suicides a year by U.S. veterans.

"As much as we may wish for expeditious improvement in the way the VA handles mental healthcare and service-related disability compensation, we cannot exceed our jurisdiction to accomplish it," Judge Jay Bybee wrote for the majority.

Citing President Abraham Lincoln's second inaugural address, he added: "There can be no doubt that securing exemplary care for our nation's veterans is a moral imperative. But Congress and the President are in far better position 'to care for him who shall have borne the battle.'"