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VA Benefits & National Personnel Records Center Fire

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11.0—Veterans' claims

Q: I am applying for my VA benefits and the VA Regional Office (RO) is requesting my Service Treatment Record (STR) from the National Personnel Records Center (NPRC). However, I think my records were destroyed in the 1973 fire. What can I do about that?

A: The 1973 NPRC fire destroyed about 80% of Army Personnel Records for those members discharged between November 1, 1912 and January 1, 1960, and 75% of Air Force Personnel Records for those members discharged between September 25, 1947 and January 1, 1964 (with names alphabetically after Hubbard, James E.). If your service time falls within any of those categories, it is likely that the fire destroyed your records. Many people believe these records consist only of World War II veterans' records, however this time period does include some of the beginning years of the Vietnam War (1955 –1975). If you are not sure whether your records were actually destroyed or if the VA has just failed to properly request or receive your records (which occasionally happens), you can always just personally request your own records from NPRC and see if the records exist. If they do exist and you receive a copy, you can always forward a copy of the records to the VA as supplemental evidence to your application or appeal and they will add it to your file and review it during the process.

If it seems that the records were destroyed you can submit a request for the Veteran's Service Treatment Records (STRs) to NPRC through the Personnel Information Exchange System (PIES), using request code M01. With that application you will also want to complete a *NA Form 13055, Request for Information Needed to Reconstruct Medical Data*, and return that form within 30 days. The way this works is that if NPRC responds to the request by stating that the fire destroyed your records, the VA Regional Office (RO) you are applying to will use the information from the completed *NA Form 13055* to submit a request to NPRC through PIES for reconstruction of your records, using request code M05. This reconstruction of

¹ Title used for purposes of identification only. The views expressed in this article are the views of the author and should not be attributed to the United States Marine Corps, the Department of the Navy, the Department of Defense, or the United States Government. First Lieutenant Barrett graduated from William & Mary Law School in May 2013 and took the Florida bar exam in July 2013. Sometime after he receives his bar results, he will report to active duty in the Marine Corps, as a judge advocate. In the meantime, he is working at the Service Members Law Center as a research associate.

records *may* give the VA the information it needs to be able to properly assign a service connection for you.

Unfortunately, the VA does not provide for any assumptions or leniency when dealing with cases of missing files due to the 1973 fire. However, there are some alternatives you may want to utilize. In accordance with the VA Web Automated Reference Material System (WARMS), there are various types of evidence the VA may use to supplement or substitute for STRs including but not limited to:

- statements from service medical personnel
- certified "buddy" statements or affidavits
- accident and police reports
- employment-related examination reports
- medical evidence from civilian/private hospitals, clinics, and physicians that treated the Veteran during service or shortly after separation
- letters written during service
- photographs taken during service
- pharmacy prescription records, and/or
- insurance-related examination reports.

(M21-1MR, Part III, Subpart iii, Chapter 2, Section E)

Just about anything you can think of to submit to the VA to help prove your claim will be taken into consideration if you can properly articulate to them (in writing) why the evidence should be accepted and how it proves what you purport it to prove. One form of evidence that seems to be very helpful and persuasive with the VA is "buddy statements." If you happen to have any friends, Commanding Officers, fellow servicemembers, or others can testify to your injuries or your situation at that time, and you can persuade those individuals to put their statements in writing and sign them, the VA puts weight to that as evidence almost as they would any medical documents from the hospital.

It may take a while to submit all of these requests to NRPC and to gather the evidence and documents that you want to submit for your application or appeal; however, you do not want to wait until you have everything to submit the application or appeal itself to the VA. One of the most important things that you can do right now for your case is actually get the application or appeals process started with your claim. Your benefits with the VA will start when your application is formally filed, despite how long the process may actually take. So you will want to get your application in as soon as possible to get your start date set while you are filling out these forms and gathering this evidence.

In the case of an appeal with the VA you should file a Notice of Disagreement (NOD) with the RO stating that you do not agree with the decision on your rating decision and would like your claims to be reevaluated. Filing this NOD will get the gears turning with the RO and put them on notice that they should not close your file but

rather start their evaluation process over again. Getting this done quickly is important for two reasons. First, the appeals process with the VA is very slow so the faster you get them started the faster you will get the appropriate rating assigned to you. Second, there is a 1-year deadline to file an appeal with an RO and when that deadline passes your file will be closed and no longer appealable through this simple process. You would then have to file to re-open your case which is a much more difficult process. The 1-year clock starts from the date on the Rating Decision indicating the VA decision on your application. If that time has already passed, you may want to talk to an attorney about gathering the evidence needed to reopen your case.

Once your application or NOD is filed with the VA and you followed the steps previously laid out to either request your personnel files or have them reconstructed, you will want to take the time to gather the various forms of evidence previously discussed and get ready to send them to the VA as supplemental evidence to your case. This can be done on your own or you may want to seek legal assistance or assistance from a registered Veteran Service Organization (VSO).