

Green, Nancy, VBAWSAL

To: Blake, John, VBAWSAL  
Subject: QTC exam

The case of [REDACTED] is on remand primarily for medical opinions regarding causation and/or aggravation.

Eye exam was done on 10-15-01 and the examiner stated that "it is at least as likely as not that the exposure to gun smoke powder and debris could have aggravated the macular scar which he apparently has had since age 12." The examiner also stated: "...it is at least as likely as not that the gun smoke powder and debris aggravated his open-angle glaucoma in both eyes."

That is not enough information to send back to Washington. In the examiner's opinion we need to know whether (as likely as not) the macular scar was aggravated during service." Not "could have." BVA is asking for his educated guess. If the answer is "who knows," then the examiner should say that. Otherwise, he should give his opinion as to what he thinks did happen in this case--to a level of certainty of 50% probability or more (at least as likely as not.) He should answer about the macular scar in the same manner that he expressed an opinion about the open angle glaucoma--straight out yes or no. It was or was not aggravated during service (at least as likely as not.) "I don't have any way of knowing" is also a perfectly valid answer, if that is the case.

Then the question arises, and requires some sort of answer, as to how much of the current eye disability is due to the aggravation. He has stated that "yes" the glaucoma was aggravated. Now we need to quantitate that. Don't forget that if we grant service connection for aggravation during service, we must deduct the level of disability at enlistment from the current disability. So the examiner has to tell us not only yes or no, best guess, 50% probability it was aggravated, but also how much.

Please note on the same eye exam that the examiner stated that he did not have the records showing the condition on enlistment which the BVA remand stated that they saw. Be sure that the examiner has those service medical records so he is not handicapped in his opinion making process. And also so that BVA does not reject the exam results because of the examiner's statement about records that he apparently did not have.

[FYI for QTC. If the examiner had said only "could have" for both the macular scar and the glaucoma, then I could have continued the denial for eye condition since "could have" is not sufficient to sustain a grant. Or if he has said "no" to both the case could have been rated. If he had said "yes" to both, the case would have had to be sent back for the answer to how much. In this case, though, there is one (1) "yes", one (1) "could have" and no (0) how much. So the case cannot be rated until this is solved.]

Thanks a bunch,

Nancy Green MD

John B. GTC 1.9.02  
[Signature]