

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Hyatt v. Shinseki

566 F.3d 1364 (Fed. Cir. 2009) · No. 2008-7163 · Decided May 27, 2009

SUMMARY

The United States Court of Appeals for the Federal Circuit affirmed the denial of Mrs. Julianne Hyatt's motions to substitute herself for her deceased husband in his veterans' benefits appeal and to have the Veterans Court's judgment reissued nunc pro tunc. The court held that she lacked standing because the court-martial records sought on remand would not constitute evidence in the file at the date of death for purposes of an accrued-benefits claim under 38 U.S.C. § 5121. The court also concluded that substitution was unnecessary and that nunc pro tunc relief was unavailable.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Prost, Circuit Judge; Lourie, Circuit Judge; Gajarsa, Circuit Judge
JURISDICTION	Federal
DECIDED	May 27, 2009
DOCKET	2008-7163
DISPOSITION	affirmed
PROCEDURAL POSTURE	Julianne Hyatt, the widow of deceased veteran Paul W. Hyatt, appealed the United States Court of Appeals for Veterans Claims' order denying her motions to be substituted as a party and to have the Veterans Court's judgment reissued nunc pro tunc as of the veteran's date of death.
STANDARD OF REVIEW	The Federal Circuit reviews legal questions from the Veterans Court de novo and is limited to questions of law under 38 U.S.C. § 7292(d) (1).
PRECEDENTIAL VALUE	Published precedential Federal Circuit opinion.
PARTIES	Paul W. Hyatt v. Eric K. Shinseki, Secretary of Veterans Affairs

TOPICS

- veterans benefits
- appellate procedure
- statutory interpretation
- administrative law
- military law

PRACTICE AREAS

veterans benefits

administrative law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the surviving spouse had standing to be substituted as a party in the deceased veteran's Veterans Court appeal.
2. Whether an accrued-benefits claimant must show an imminent entitlement to benefits before substitution and nunc pro tunc relief may be available.
3. Whether court-martial records that were not in the VA's actual possession at the veteran's death could qualify as evidence in the file at the date of death under 38 U.S.C. § 5121(a).
4. Whether the Veterans Court's judgment could be reissued nunc pro tunc when substitution was unavailable.

HOLDINGS

1. An accrued-benefits claimant seeking substitution to obtain nunc pro tunc relief need not show that the underlying judgment would result in an imminent entitlement to benefits. The claimant need only show that failure to reissue the judgment nunc pro tunc would adversely affect the accrued-benefits claim in some way.
2. The widow was not adversely affected by withdrawal of the Veterans Court's decision because the court-martial records were not evidence in the VA's possession at the date of the veteran's death and therefore could not be considered in her accrued-benefits claim under 38 U.S.C. § 5121(a).
3. Section 5121(c) did not permit submission of the court-martial records because the regulation limits post-death evidence under that subsection to evidence necessary to establish the claimant's eligibility to receive accrued benefits, and the records were not offered for that purpose.
4. Because the widow could not be substituted as a party, nunc pro tunc relief was unavailable.

KEY QUOTATIONS

“Thus, the accrued benefits claimant need only show that the failure to reissue the decision nunc pro tunc will adversely affect her claim in some way.” (1369)

“The authority to enlarge the universe of evidence upon which accrued benefits claimants may rely lies with Congress, not this court.” (1371)

FACTUAL BACKGROUND

Paul Hyatt served in the United States Marine Corps and was injured in 1959 when another servicemember struck him in the back with a bayonet. He later sought disability compensation for a lower-back condition, but the VA denied the claim because the record did not establish a nexus between the injury and his disability. The VA and Board did not obtain court-martial records that might have described the nature and extent of the injury. After the Veterans Court remanded for the VA to attempt to obtain those records, Hyatt died, and his widow sought substitution and nunc pro tunc relief to preserve the potential evidentiary benefit of the remand.

PROCEDURAL HISTORY

Paul Hyatt's disability-compensation claim was denied by a VA regional office and later by the Board of Veterans' Appeals. The Veterans Court reversed the Board's determination that the VA had satisfied its duty to assist and remanded for the VA to attempt to obtain court-martial records. Hyatt died before judgment was entered, and his widow sought substitution and nunc pro tunc relief so that the records could support a potential accrued-benefits claim. The Veterans Court denied both motions, and the Federal Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Hyatt v. Nicholson, 21 Vet.App. 390, 395 (2007)
- Hyatt v. Peake, 22 Vet.App. 211, 213-16 (2008)
- Bailey v. West, 160 F.3d 1360, 1362 (Fed. Cir. 1998) (en banc)
- Richard v. West, 161 F.3d 719, 723 (Fed. Cir. 1998)
- Zevalkink v. Brown, 102 F.3d 1236, 1241-44 (Fed. Cir. 1996)
- Padgett v. Nicholson, 473 F.3d 1364, 1366-70 (Fed. Cir. 2007)
- Pelea v. Nicholson, 497 F.3d 1290, 1291-93 (Fed. Cir. 2007)
- Hayes v. Brown, 4 Vet.App. 353, 360 (1993)
- Bell v. Derwinski, 2 Vet.App. 611, 611-13 (1992)

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