

Blue Water Veterans Litigation



The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

On behalf of the undersigned Veterans Service Organizations and our millions of members, we urge you to direct the Justice Department NOT to appeal the U.S. Appeals Court for the Federal Circuit decision in Procopio v. Wilkie, decided on January 29, 2019. In recent testimony, Secretary Wilkie indicated that he would not be making any recommendations to appeal the Procopio decision, therefore, we call on you to direct him to immediately begin implementing this decision so that justice is finally provided to the men and women who served in Vietnam, suffered from the devastating long-term health effects of Agent Orange exposure, but who today are denied the benefits and health care they have earned.

When the VA implemented the Agent Orange Act of 1991, it was clear that veterans who received the Vietnam Service Medal, to include those who served in the waters offshore, were exposed to Agent Orange. In 1993, a VA General Counsel Opinion held that veterans with service in the waters offshore were exposed to Agent Orange. Unfortunately, an erroneous 1997 VA General Counsel Opinion and subsequent VA bureaucratic decision in 2002, determined that exposure to Agent Orange required "boots

on the ground" in Vietnam.

For decades, Vietnam veterans who had served only in the waters offshore – commonly referred to as “Blue Water Navy veterans” – have been denied full benefits or access to healthcare due to these erroneous VA decisions. Thousands of these veterans have become ill with diseases that have been scientifically linked to Agent Orange exposure; many have died.

In *Procopio v. Wilkie*, the Court held in a 9 to 2 decision that VA had misinterpreted the term “in the Republic of Vietnam,” which under all available international law includes both its landmass and its territorial seas. This decision explicitly recognizes Blue Water Navy veterans as having been exposed to Agent Orange and makes them eligible for full VA benefits and healthcare.

Mr. President, a veteran is someone who at one point in their life wrote a blank check made payable to the United States of America, for an amount up to and including their life. We ask that you and our grateful nation take another step towards meeting that commitment by NOT appealing *Procopio v. Wilkie* so that justice is not further delayed or denied to Blue Water Navy veterans.

Respectfully,



Edward R. Reese, Jr.
Washington Executive Director
DAV (Disabled American Veterans)



Robert E. Wallace
Executive Director
Veterans of Foreign Wars of the United States

Louis Celli, Jr.
Executive Director
Government & Veterans Affairs
The American Legion

Carl Blake
Executive Director
Paralyzed Veterans of America

Joseph R. Chenelly
National Executive Director
AMVETS

Douglas Greenlaw
National Commander
Military Order of the Purple Heart

Thomas J. Snee
National Executive Director
Fleet Reserve Association

RADM Christopher W. Cole (USN, Ret.)
Chief Executive Officer
Association of the United States Navy

Rick Weidman
Executive Director for Policy
Vietnam Veterans of America

Dana T. Atkins
Lieutenant General, U.S. Air Force (Ret.)
President
Military Officers Association of America