

Office of Administrative Review: Training Handout

Legacy Appeals: Board Remands (VA 4571676)

Instructor Guide – Remand Scenario 3

Training Scenario

Veteran's appeal was for service connection for cervical spine disorder, lumbar spine disorder, right knee disorder and acquired psychiatric disorder to include PTSD. Explore and discuss this case as follows:

- [Board Remand](#)
- [Subsequent Development Letter After Remand](#)
- [Exam Request from Remand](#)
- [Classroom Discussion](#)



Board Remand

REASONS FOR REMAND

1. Service connection for a cervical spine disorder is remanded.
2. Service connection for a lumbar spine disorder is remanded
3. Service connection for a right knee disorder is remanded.

The Veteran generally seeks service connection for a cervical spine disorder, a lumbar spine disorder, and a right knee disorder as caused by or aggravated by service. VA treatment records reflect that the Veteran receives treatment for the above claimed conditions from private providers. The Veteran authorized VA to obtain private treatment records from several private providers in December 2017; however, it does not appear that the relevant private treatment records have been provided or associated with the claims file. As such, the Board finds that the remand is necessary for the Veteran to provide any relevant private treatment records or information regarding such private provider(s) so private treatment records can be requested on the Veteran's behalf.

4. Service connection for an acquired psychiatric disorder is remanded.

The Veteran asserts two primary events that occurred during service resulted in the current acquired psychiatric disorder, to include PTSD and depression. Specifically, during the August 2020 Board hearing, the Veteran credibly testified that while he was stationed in Korea, he witnessed two civilians get electrocuted. The Veteran also testified to riding in a vehicle that ran over a child, but that the driver would not stop the vehicle due to safety concerns.



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A review of the record reveals that because the claimed in-service stressor events could not be verified. VA did not provide a VA examination to assess the claimed PTSD. However, VA treatment records indicate the Veteran is also diagnosed with depression, which has a lower evidentiary standard to support a service connection disability claim. As such, the Board finds that remand is necessary to obtain a VA examination assessing the current acquired psychiatric disorder of depression, and whether depression is related to service.

The matters are REMANDED for the following actions.

1. Contact the Veteran and request he identify the names, addresses, and approximate dates of treatment for all private health care providers who have treated him for the cervical spine disorder, lumbar spine disorder, and right knee disorder, and provide appropriate authorizations so the RO can request these. The RO should request copies of any private treatment records identified by the Veteran that have not been previously secured and associate them with the electronic record. All reasonable attempts should be made to obtain these records. If identified records are not ultimately obtained, the Veteran should be notified pursuant to 38 C.F.R. § 3.159(e).

2. Schedule a VA examination in order to assess all the Veteran's current acquired psychiatric disorders. The VA examiner should diagnose all acquired psychiatric disorders and then provide the below opinion. A rationale for all opinions and a discussion of the facts and medical principles involved should be provided. For each diagnosed psychiatric disorder(s), the VA examiner should provide the following opinion:

Is it at least as likely as not (i.e. probability of 50 percent or greater) that any such acquired psychiatric disorder is related to the Veteran's reported stressors, to include witnessing two civilians being electrocuted and riding in a vehicle that ran over a child?

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Subsequent Development Letter After Remand

Important Information

- Please place the enclosed Decision Review Operations Center coversheet on top of any information or documents you send in response to this letter. Failure to place the enclosed coversheet on top of documents you send in response to this letter to support claim may delay review of the material you submit. Complete and return the enclosed *VA Form 21-4142, Authorization to Disclose Information to the Department of Veterans Affairs (VA)* and *VA Form 21-4142a, General Release for Medical Provider Information to the Department of Veterans Affairs (VA)*, so that we can obtain treatment records for your back, neck, and knee condition on your behalf. You may want to obtain and send us the records yourself, if possible. Please identify the names, addresses, and approximate dates of treatment for all private health care providers who have treated you for the cervical spine disorder, lumbar spine disorder, and right knee disorder.

Exam Request from Remand

Standard Language Output Text:

The Veteran is claiming service connection for acquired psychiatric disorder. Please examine the Veteran for a chronic disability related to his or her claimed condition and indicate the current level of severity.

TYPE OF MEDICAL OPINION REQUESTED: Direct service connection

Does the Veteran have a diagnosis of (a) acquired psychiatric disorder that is at least as likely as not (50 percent or greater probability) incurred in or caused by (the) witness to several stressful events along with everyday military life during service?

Rationale must be provided in the appropriate section.

Please review the Veteran's electronic folder(s) and state that it was reviewed in your report.

Pre BVA Remand: We request an examiner should diagnose all acquired psychiatric disorders and then provide the below opinion. A rationale for all opinions and a discussion of the facts and medical principles involved should be provided.

For each of the diagnosed psychiatric disorder(s), the VA examiner should provide the following opinion:

Is it at least as likely as not (i.e. probability of 50 percent or greater) that any such acquired psychiatric disorder is related to the Veteran's reported stressors, to include witnessing two civilians being electrocuted and riding in a vehicle that ran over a child?

The Veteran needs to report for all examinations for the following Contention:

- acquired psychiatric disorder

ACE process must not be used to complete the DBQ(s).

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Your review is not limited to the evidence identified on this request form, or tabbed in the claims folder. If an examination or additional testing is required, obtain them prior to rendering your opinion.

POTENTIALLY RELEVANT EVIDENCE: Please enter all tab descriptions of evidence, locations, and dates.

NOTE: Your (examiner) review of the record is NOT restricted to the evidence listed below. This list is provided in an effort to assist the examiner in locating potentially relevant evidence.

Tab A1 BVA Remand dated 02/26/2021

Tab A2 Private treatment records dated 08/03/2020

Tab A3 Statement in Support of PTSD Claim dated 01/26/2018

Tab A4 CAPRI records dated 06/02/2020, 10/24/2019, 02/05/2018

For this Contention, VBMS expects a results package to at minimum include data pertaining to the following DBQ(s):

- DBQ PSYCH PTSD Initial

If more than one mental disorder is diagnosed please comment on their relationship to one another and, if possible, please state which symptoms are attributed to each disorder. PTSD is claimed due to the following stressor(s): Is at least as likely as not (i.e. probability of 50 percent or greater) that any such acquired psychiatric disorder is related to the Veteran's reported stressors, to include witnessing two civilians being electrocuted and riding in a vehicle that ran over a child?

Classroom Discussion

NOTE: Allow students to ask questions as needed about this exercise, outside the pre-determined discussion questions. This is an exercise to introduce students to real sample remands and development actions from actual claims. It is important that their questions and thoughts drive the discussion.

1. Identify the claimed issues under the remand.



Instructor Discussion Point: Cervical spine disorder; lumbar spine disorder; right knee disorder; acquired psychiatric disorder.

2. List the development actions required by the Board.

Instructor Discussion Point: Development for private medical records; examinations.

3. Which exam(s) is/are required by the Board? Is a medical opinion required?

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Instructor Discussion Point: *Mental disorders exam; medical opinion required.*

4. VSR receives the exams back from the provider. Does that end the development required of the VSR?

Instructor Discussion Point: *No; VSR must review the exam for completeness and ensure the examiner provided the opinion that was requested.*