**DEPARTMENT OF VETERANS AFFAIRS**

**Veterans Benefits Administration Regional Office**

**Kevin C.**

**VA File Number**

**XX XXX XXXX**

**Represented By: AMERICAN LEGION**

**Rating Decision MM/DD/YYYY**

**INTRODUCTION**

The records reflect that KEVIN C. was a Veteran of the Peacetime. The Veteran served in the Navy from May 27, 1977 to September 6, 1978. The Veteran died on November 13, 2023 and an original death claim was received on December 7, 2023. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

Service connection for cause of death is denied.

**EVIDENCE**

VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received November 17, 2023

VA Form 21-534EZ, Application for DIC, Survivors Pension, and/or Accrued Benefits, received December 7, 2023

Veteran's Death Certificate, received December 7, 2023

VA Form 21-22, Appointment of Veterans Service Organization as Claimant's

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There is evidence in the Veteran’s record to substantiate a Toxic Exposure Risk Activity (TERA) due to the PACT ACT law. VA conducted a review of the Veteran’s records and toxic exposure due to service is conceded, however the cause of death as listed on the death certificate is not listed amongst the allowed presumptive conditions. A medical opinion based on toxic exposure risk activity (TERA) was not requested because the evidence does not show the cause of death, is associated with toxic exposure, there is no indication of association between these causes of death and participation in a TERA. There is also no medical or scientific evidence in the Veteran’s record of an association between the cause(s) of death and in-service TERA. We may consider that the Veteran’s cause of death is associated with service if you send us scientific or

Kevin C. XX XXX XX

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Representative, received December 7, 2023

VA Memo positive for Toxic Exposure Risk Activity (TERA), dated February 15, 2024 VA Memo confirming Republic of Vietnam nautical service and exposure to herbicides, dated February 15, 2024

Atlanta VAMC (Veterans Affairs Medical Center) treatment records, received February 20, 2024, for the period August 5, 2021 to November 13, 2023

Service Treatment Records, received October 23, 2014, for the period May 27, 1977 to September 6, 1978

VA development letter, dated March 15, 2024

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**REASONS FOR DECISION**

**Service connection for the cause of death.**

The death of a Veteran will be considered as having been due to a service-connected disability when the evidence establishes that such disability was either the primary or contributory cause of death.

Prior to death, the Veteran was not service connected for any disability. The death certificate recorded the Veteran’s cause of death as depression.

There is no evidence that the condition(s) causing or contributing to death manifested to a compensable degree within one year from the date of military discharge for consideration under 38 CFR 3.309 (a).

The Veteran's service treatment records are silent for any findings, complaints, or treatment of the condition(s) shown as causing or contributing to death.

Service connection may be granted for a disability related to toxic exposure risk activity (TERA) during military service if evidence demonstrates that the Veteran was actually exposed in service and that a disease associated with such exposure resulted. (38 CFR 3.303, 38 CFR 3.304)

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medical evidence showing that the cause of death is medically associated due to service. If a doctor has expressed an opinion regarding the relationship of the cause of death and service, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion. (38 U.S.C. 1168)

In our letter(s) to you listed in the “Evidence” section, VA requested that you submit any medical evidence showing that the Veteran’s service-connected conditions or service caused or contributed to death, and/or medical evidence showing a reasonable probability that the condition(s) which contributed to the Veteran’s death was caused by injury or disease that began during active-duty service to substantiate your claim for benefits.

As of the date of this rating, we have not received any medical evidence indicating that the cause(s) of death were incurred in-service or caused by injury or disease that began during his period of active-duty service.

There is no evidence that the Veteran’s active-duty service caused, aggravated or hastened the death of the Veteran.

As of the date of this rating, we have not received evidence indicating that the Veteran’s cause of death was related to military service. Entitlement to service connection for the cause of the Veteran’s death is denied since the evidence fails to show that it was related to military service. (38 CFR 3.312)

**REFERENCES:**

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all Veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, [www.va.gov.](http://www.va.gov/)

**JURISDICTION:** Original Death Claim Received 12/07/2023

140; PMC-Initial S/C Death; 12/07/2023

**ASSOCIATED CLAIM(s):**

**DEATH DECISIONS (8d. NSC Peacetime)**

Denial, Not Service Connected Death. Cause of death: depression [PACT Exam Exclusion - Sec.1168] [Toxic Exposure Risk Activity (TERA)/TERA Conceded]

eSign: certified by ADJJDOE, RVSR

**LEGACY CODES**

**ADD'L SVC CODE**

**COMBAT CODE**

**SPECIAL PROV CDE**

**FUTURE EXAM DATE**

1

None

**ACTIVE DUTY**

**EOD**

**RAD**

**BRANCH**

**CHARACTER OF DISCHARGE**

05/27/1977

09/06/1978

Navy

Under Honorable Conditions

**Rating Decision**

***Department of Veterans Affairs Veterans Benefits Administration***

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NAME OF VETERAN

Kevin C

VA FILE NUMBER

XX XXX XX

SOCIAL SECURITY NR

XXX-XX-XXXX

POA

AMERICAN LEGION

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