

**DEPARTMENT OF VETERANS AFFAIRS**

**Veterans Benefits Administration Regional Office**

**BRIAN T.**

**VA File Number XX XX XX**

**Represented By:**

**N.C. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

**Rating Decision 07/18/2024**

**INTRODUCTION**

The records reflect that BRIAN T. was a Veteran of the Vietnam Era and Peacetime. The Veteran served in the Army from October 18, 1974 to April 19, 1979. The Veteran died on July 12, 2023 and an original death claim was received on August 15, 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 21P-530EZ, Application for Burial Benefits, received August 15, 2023 Veteran's Death Certificate, received August 15, 2023

VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative, received August 15, 2023

VA development letter, dated May 24, 2024

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Capri Enterprise Search for VAMC treatment records, this search was negative for any records one year prior to the Veteran’s death to present, dated July 18, 2024

VA Memo negative for Toxic Exposure Risk Activity (TERA), dated July 17, 2024

VA Memo negative for Republic of Vietnam service and Agent Orange exposure, dated July 17, 2024

Service Treatment Records, received October 22, 2019, for the period October 18, 1974 to April 19, 1979

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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 the Veteran's death, service connection had not been established for any disability. The death certificate recorded the Veteran’s cause of death as metastatic squamous cell carcinoma of the right lung, hypertension, hyperlipidemia, anemia, chronic kidney disease.

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.

There is no evidence in the Veteran’s record to substantiate a Toxic Exposure Risk Activity (TERA). Due to the provisions of the PACT ACT, VA conducted a review of the Veteran’s records, fact and circumstances of service and the causes of death to determine a nexus that would warrant a medical opinion, however based on our review TERA exposure is not conceded. (USC 1168)

Under the provisions of 38 USC 1116, VA has determined that presumption of service connection based on certain locations associated with herbicide exposure during military service is not warranted for any conditions other than those for which VA has found a positive association between the condition and such exposure. VA has determined that a positive association exists between exposure to herbicides and the subsequent development of the following conditions: AL amyloidosis; chloracne or other acneform disease consistent with chloracne; bladder cancer; type 2 diabetes (also known as type II diabetes mellitus or adult-onset diabetes); Hodgkin's disease; hypertension; hypothyroidism; ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable, and Prinzmetal's angina); all chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia); monoclonal

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gammopathy of undetermined significance; multiple myeloma; non-Hodgkin's lymphoma; Parkinson's disease; parkinsonism; early-onset peripheral neuropathy; porphyria cutanea tarda (PCT); prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea); and soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). PCT, chloracne, and early-onset peripheral neuropathy are required to become manifest to a compensable degree within one year from last exposure. (38 USC 1116, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.312)

A review of the Veteran's records was conducted, and the evidence of record does not show the Veteran had duty or visitation in the Republic of Vietnam, or on its inland waterways, or nautical service in the offshore eligible waters as defined in 38 CFR 3.307.

There is no evidence in the Veteran’s record to substantiate service in the Republic of Vietnam or exposure to herbicides in any location, therefore, presumptive consideration cannot be given with regards to Agent Orange exposure as such exposure is not conceded.

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 08/15/2023

**ASSOCIATED CLAIM(s):** 160; PMC SC Burial; 08/15/2023

**DEATH DECISIONS (8d. NSC Gulf War)**

Denial, Not Service Connected Death. Cause of death: metastatic squamous cell carcinoma of the right lung, hypertension, hyperlipidemia, anemia, chronic kidney disease [Toxic Exposure Risk Activity (TERA)/TERA Not 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**

10/18/1974

04/19/1979

Army

Honorable

**Rating Decision**

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

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NAME OF VETERAN

BRIAN T.

VA FILE NUMBER

XXX XX XXXX

SOCIAL SECURITY NR

XXX-XX-XXXX

POA

N.C. DEPARTMENT OF MILITARY AND VETERANS

AFFAIRS

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