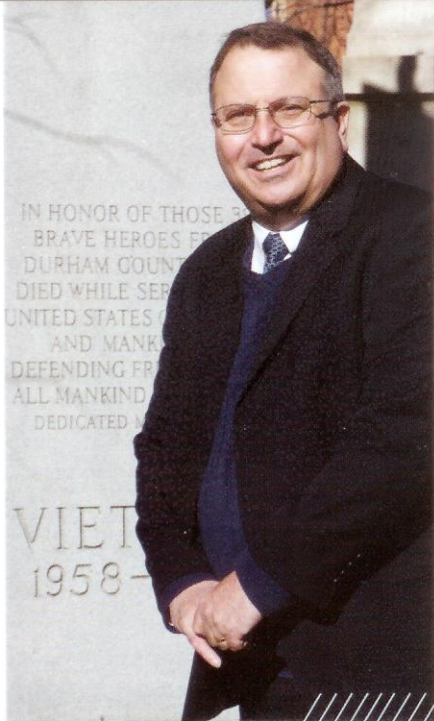


VETERANS LAW CLINIC

ONE VETERAN'S LONG ROAD TO VICTORY



Craig Kabatchnick

North Carolina Central University School of Law is one of the few law schools in the country that has a legal program as unique and respected as the NCCU Veteran's Law Clinic. The idea of a legal clinic for veterans originated with me, and the late Judge Robinson Everett. The clinic opened its doors in January 2007.

The response to this clinic has been outstanding, and the benefits of a Veterans Law Clinic located in a state with such a large veteran and military personnel population is obvious. The students work diligently with veterans to help them maneuver the Veterans Administration (VA) claims adjudication process. Students advocate for further medical examinations when needed, and ensure that the VA applies its broadened duty to assist veterans in the development of their claim, as required by law. Some cases are appealed to the U.S. Court of Appeals for Veterans Claims.

Last year, I and clinic student Patricia Fitzsimmons '10 represented a veteran and his spouse at a hearing before the Board of Veterans Appeals. The veteran was a member of the Marine Corp's Company C, 1st Battalion, 8th Marines (C/1/8). On April 18, 1953, the Marine Corp's Battalion mission was aborted due to excessive radiation exposure "specifically a 23 kiloton tower atomic shot" during Operation Upshot-Knothole in Nevada. After the detonation, the battalion continued the mission and was exposed to radiation.

Over the years, the veteran suffered from bone death—bilateral avascular necrosis of the femoral head and skin cancer. Suspecting that his diseases were related to his service in the Marines, the client began to maneuver the claims process without representation by an attorney. The Department of Veterans Affairs denied the claim for benefits, asserting that the diseases were not related to the radiation exposure in 1953. Unsuccessful for approximately 29 years, the veteran finally sought the assistance of the Veterans Law Clinic.

Fitzsimmons was particularly qualified for this assignment. Before she entered law school, Fitzsimmons received a Ph.D. in Inorganic Chemistry from Wake Forest University, and a B.S. in Biochemistry from the State University of New York-Buffalo. In addition, she had experience working for the Environmental Protection Agency and Bayer Corporation, Division of Biological Products, and possessed a vast knowledge of radiation biology.

The Clinic fought for a hearing. At the hearing, Fitzsimmons and I presented medical records to support the veteran's claim and Fitzsimmons' extensive background allowed her to explain the research in this area. The result was a successful argument that the veteran's skin cancer was due

to the radiation from the nuclear blast, which was as much as 4000 times the estimate first indicated by the government.

This case was the first time that the Board of Veteran's Appeals had ever granted benefits to a veteran exposed to radiation during a test site nuclear blast such as the one that occurred during Operation Upshot-Knothole in April 1953. Unfortunately, the celebration of this victory was short-lived. The veteran died in 2010. But because of the Veterans Law Clinic success, his widow now has benefits to support her.

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