

No. 20-2090

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UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT  
717 Madison Place, N.W.  
Washington D.C. 20439  
Phone: 202-275-8000

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ANDREW U. D. STRAW,  
*Plaintiff-Appellant,*

*v.*

ROBERT WILKIE, SECRETARY OF  
VETERANS AFFAIRS,  
*Defendant-Appellee.*

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Appeal from the United States Court of Appeals  
for Veterans Claims (U.S. CAVC)  
Case No. 18-7129  
The Honorable Judges Falvey, Greenberg, & Toth, Presiding

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INFORMAL REPLY BRIEF OF APPELLANT

38 U.S.C. § 1787 (the Act's title):  
"Health care of family members of veterans stationed at  
Camp Lejeune, North Carolina."

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I, *appellant* Andrew U. D. Straw, note the appellee brief on **September 9, 2020**, and make this INFORMAL REPLY BRIEF:

### **STATUTORY INTERPRETATION ERROR**

1. First of all, I stand by my opening brief, which the appellee response did not rebut.
2. The central issue for this appeal is whether “reside at” in Section 1787(a) should be **harmonized with the title of the Act**, Section 1787, which covers me on its plain language, or whether a dictionary can be pulled out by the Court below to inject a meaning completely contrary to the title.
3. If the “reside at” language is truly so ambiguous that the Court below was willing to **abandon the title** and the purpose of the Act (as evidenced by the speeches of Rep. Miller and Rep. Burr, the House and Senate sponsors of the Bill, as well as President Obama’s signing statement) in favor of some dictionary that was not included by Congress, and is NOT LAW, my interpretation is more valid.
4. **I was born there** on that EPA Superfund site and I got sick. How am I different from the girl whose name is on this Act? Janey Ensminger lived there but was not born there. **We both got sick from a condition listed by the VA.**
5. Alas, the Act at Section 1787 does not require living in base housing. If Congress meant base housing only, ***it would have said that.*** VA is misinterpreting this Act to make sure people like me cannot get this health coverage for illnesses the VA associates with the base. 38 C.F.R. § 17.400(b)(xiv).

6. In short, canons of statutory construction such as **harmonizing** are used when there in fact is ***no plain meaning***. The Court below said Congress has not defined this “reside at” and that’s enough to prove there is no plain meaning.
7. Hawaii, for instance, allows me to choose that state as my U.S. residence while I am visiting the Philippines. Residence is a legal term, not a dictionary matter.
8. Once Congress has not defined residence, and the Court below in using a dictionary admits this, the purpose of the Act can be used to define residence.
9. The purpose of the Act is to **take responsibility for poisoning people like me and my mother**. We were there. Nobody disputes that we were there. And as of today, I know the exact dates we were there. December 19, 1968 to January 31, 1970. I did not know this before because VA never provided me with my father’s service record as of today. Not only did VA ***not cooperate***, it had a ***duty to cooperate***. How am I supposed to know where we lived when we first moved to Camp LeJeune, December 1968 to March 1969? There is a critical gap that VA and the Military and NARA are maintaining as a black hole. I presume that my father signed in at Camp LeJeune and had a base address when he first moved there, but I don’t know. I was *in utero*.
10. Not only were we there and using that base for **30 days (an arbitrary and irrational number)**, we were there and using that base for over ***a year***.
11. These facts are not disputed. The problem here is VA and now the Justice Department bending over backwards to inject meaning into the Act that is not supported by the words of the Act or its Title.
12. *Base housing* simply does not appear in 1787(a). “Reside at” is not defined.

13. But my illness, *neurobehavioral effects*, is listed in the regulation and in the Act.

Like the title, those provisions should dictate that I am covered.

14. Getting the illnesses is, more likely than not, evidence of being poisoned on that base where I was born and which I used. I don't think anyone disputes this either.

15. We are litigating over what residence means.

16. DOJ can't just wave its arms around and say residence *plainly means X* and then ignore the title of the Act and use an *outside dictionary* to decide the meaning of "reside at" because Section 1787(a) is not clear enough on its face.

17. In fact, that CAVC dictionary did NOT say that in a military context, residence only means base housing. That dictionary did NOT mention poisoning children or residence in a poisoning context. The dictionary was dry white toast, totally removed from that Camp LeJeune context and me.

18. DOJ's position would have been much stronger if the Court below had not used a dictionary to define residence when residence was not defined by Congress explicitly. The meaning of residence needs outside help and using a dictionary proves it. Only, I reach to the title of the Act for that help and VA and DOJ and CAVC reach for a dictionary in a very hostile and even malicious manner given my suffering.

19. They refuse to listen to what the Act is for. There is no respect here.

20. The level of disrespect is like DOJ's attorney standing next to a military funeral with an acid rock band on a boombox, disrupting the proceeding so loudly. My brain damage and my mother's cancer and death rise to that level.

21. Congress passed the title. **Section 1787 is law, but the dictionary is not.**

22. Wherefore, my statutory interpretation approach uses the language of the whole Act, including the title, to define an ambiguous term. My position remains that base access and therefore exposure to these poisons as an infant creates a deemed residence day each day I had access while my father was working there. Well over a year.

23. It is fortunate that the appellee appears to accept that this is a remedial statute. **Dkt. 16, p. 8, § 2.** But in that case, the *Tcherepnin* decision should have been accepted instead of being distinguished, with *Tcherepnin*'s liberal interpretation of such statutes. *Tcherepnin v. Knight*, [389 U.S. 332](#), 336 (1967): "In addition, we are guided by the familiar canon of statutory construction that remedial legislation should be **construed broadly** to effectuate its purposes." This appears to supersede the language from 20 years earlier in *Railroad Trainmen v. Baltimore & Ohio R. Co.*, [331 U.S. 519](#) (1947). This is more government overreaching not to achieve justice for me, but to be stingy at my expense by narrowly construing what to me is both a remedial statute and a civil rights statute, given my mental disability at issue here, caused by the poisoning.

24. I must say I am offended by this idea that narrow *judicial* construction to achieve a "compromise" on my back is the argument of the DOJ. **Dkt. 16, p. 16.** This interpretation is a judicial or executive **taking** of a New Property right created for me by Congress just like any welfare benefit. *Stop the Beach Renourishment, Inc. v. Florida Dept. of Environmental Protection*, [560 U.S. 702](#) (2010) (judicial branch officers can do takings that must be compensated); *Goldberg v. Kelly*, [397](#)

[U.S. 254](#) (1970); *In re Ming*, [469 F.2d 1352](#), 1355 (7th Cir. 1972) (discussing New Property).

25. How many different ways can the U.S. government take from me? It took from me with this poisoning of myself and my family, depriving me of the integrity of my body and my potential as a human being. *Straw v. U.S.*, 1:20-cv-1132-MBH (Fed. Cl.).
26. It used my disability to call my disability legal work frivolous, using an ADA coordinator of all people to attack me as part of a state-federal scheme. *Straw v. U.S.*, 1:20-cv-1154-MBH (Fed. Cl.) (**Dkt. 1**). These attacks on my law licenses bounced around in the Midwest until I lost 5 law licenses in total, including 4 U.S. District Court licenses. *Straw v. U.S.*, 1:20-cv-1154-MBH (Fed. Cl.) (**Dkt. 1**). Federal courts would not provide me with their services as required by law and this too was a taking. *Straw v. U.S.*, 1:20-cv-1157-EMR (Fed. Cl.) (**Dkt. 1**)
27. After many years of struggle against a dishonest government that hid the poisoning, finally Congress acted to protect those children poisoned at Camp LeJeune, but now we are in a 6-year quibbling match using a dictionary now to reject my right to this insurance.
28. **I was born there. I was poisoned. I want my insurance.**
29. There is absolutely no evidence that I was meant to be excluded, or people like me. Quite the contrary. Watch the videos of Rep. Miller, Sen. Burr, and President Obama.
30. DOJ cannot just say that the purpose is irrelevant and ignore those who wrote this law. **There was no compromise.** Notice how the 30-day residence limit

is not even mentioned by the main sponsors or President Obama, it is such a low priority to those who wrote and passed this law. All they talk about is **taking responsibility for poisoning people like me** and providing us with health insurance as a first step toward justice.

31. We know that President Obama was all about expanding health coverage and that commitment is expressed in Obamacare. This Camp LeJeune coverage is one tiny extra piece of insurance for those poisoned by this base. The insurance honors us and our losses. It honors my losses.

32. <https://www.youtube.com/watch?v=QhhO2gLuzww> (Rep. Miller)

33. [https://www.youtube.com/watch?v=61I\\_5ekREWU&t=29s](https://www.youtube.com/watch?v=61I_5ekREWU&t=29s) (Sen. Burr)

34. <https://www.youtube.com/watch?v=v624yne2eYE> (President Obama)

35. The fact is that the term residence is not plain and is not circumscribed, and this is why the Court below pulled out its dictionary to deny me. But this was an error. Pull out the title instead, which is **law and passed by Congress**.

36. 38 U.S.C. § 1787 (the Act's title): "Health care of family members of veterans stationed at Camp Lejeune, North Carolina."

37. My Home Health Aide has been treating me for this bipolar, this Camp LeJeune plague upon me, for about 2 years and 3 months. It is time for her to be paid, along with my doctor and my pharmacy that I use for this brain damage bipolar.

38. Please respect the sacrifices of myself and my dead mother, who died from a Camp LeJeune cancer, as we supported my father and his training for Vietnam. The RESPONSE BRIEF does not even mention my mother having died of a Camp LeJeune breast cancer even though this is on the VA list and on her death

certificate. 38 C.F.R. § 17.400(b)(iii). This is relevant because it shows the **base access resulting in poisoning is what caused the illnesses**, not the irrelevant address where we slept at night.

39. Nobody takes responsibility for this poisoning. VA does not. DOJ does not. The military does not. The lower courts do not take responsibility, and 2 of the CAVC judges on my panel have military lawyer backgrounds. They should have **recused** but found it more fun to poke me in the eye with a dictionary.
40. Responsibility is the entire purpose of this Act and why I am here. The U.S. Military gave me brain damage and Congress passed legislation for people like me. ***I want my insurance.***
41. The RESPONSE BRIEF is like demanding that a car accident tort victim have an address precisely where someone crossed the center line. An address ***in the road***. It is nonsense and Congress cannot pass nonsense. My harmonization approach with Section 1787 and 1787(a) saves the statute from being nonsensical, irrational, and unconstitutional.
42. Please give me my insurance so my HHA does not have to continue living in poverty and her children suffering (one with autism) because the VA and DOJ and the courts below are being stingy and contravening the Title of my Act and its purpose using an irrelevant dictionary that was never passed as part of this law.



I, Andrew U. D. Straw, verify that the above statements are true and correct on penalty of perjury.

**DATE: September 10, 2020**



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**CERTIFICATE OF SERVICE**

I, Andrew U. D. Straw, *appellant*, certify that I filed this INFORMAL REPLY BRIEF of ANDREW U. D. STRAW with the Clerk of this Court via email at prose@cafc.uscourts.gov and sent a courtesy copy to opposing counsel at:

Andrew Hunter  
andrew.hunter@usdoj.gov

**DATE: September 10, 2020**

Respectfully,



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