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FEDERAL APPEALS COURT RULES VA MUST PAY RETROACTIVE BENEFITS TO VIETNAM VETERANS SUFFERING FROM PROSTATE CANCER AND DIABETES

On April 1, 2002, in an important Agent Orange case the U.S. Court of Appeals for the Ninth Circuit rejected the VA's appeal of the U.S. District Court's December 2000 ruling in the *Nehmer* case. In that case, the District Court held that all Vietnam veterans prostate cancer claimants or their survivors are entitled to retroactive benefits to the date the VA received the first claim for service connection for prostate cancer or for death benefits (Prostate cancer and death benefit claims that were finally denied before September 25, 1985 do not count.).

The court also upheld the District Court's rejection of the VA's argument that only two years of retroactive benefits were due to some survivors of deceased veterans subject to the earlier *Nehmer* court order. The decision is now final.

This ruling also applies to similar VA claimants with claims based on type 2 diabetes in a Vietnam veteran.

To read the opinion (*in Adobe Acrobat, a pdf file*) from the United States Court of Appeals for the Ninth Circuit, click [Nehmer opinion](#). The text of the 2000 decision of the U.S. District Court that was affirmed by the Ninth Circuit appears in the "[Archives](#)" section of this website.