IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS

JAMES S. BRADFORD,	)	
	)	
Petitioner,	)	
	)	
v.	)	Vet.App. No. 20-8861
	)	
DENIS MCDONOUGH,	)	
Secretary of Veterans Affairs,	)	
	)	
Respondent.	)	

SECRETARY'S RESPONSE TO THE COURT'S AUGUST 3, 2021, ORDER

Pursuant to the Court's August 3, 2021, Order, Respondent, the Secretary of Veterans Affairs, hereby provides a response to the Court's Order. For the reasons set forth below, the Secretary continues to assert that the Court should deny the petition.

On December 21, 2020, Petitioner, filed a petition to compel the Montgomery Regional Office (RO) to issue a decision regarding several claims remanded by the Board of Veterans' Appeals (Board) in an April 11, 2019, decision. Petition at 1-2. In April 2019, the Board remanded Petitioner's claims for entitlement to service connection for an acquired psychiatric disorder, to include posttraumatic stress disorder (PTSD); entitlement to increased ratings for service-connected lumbar spine disorder, left knee disorder, and right knee disorder; and entitlement to a total disability rating based on individual unemployability (TDIU).

Exhibit 1.[1] The Board ordered the Agency of Original Jurisdiction (AOJ) to obtain Petitioner's current contact information, obtain outstanding Department of Veterans Affairs (VA) medical records, and schedule VA examinations for Petitioner's lumbar spine condition, psychiatric disorder, and bilateral knees. *Id*.

On January 15, 2021, the Court directed the Secretary to respond to the petition and the Secretary filed a response on February 23, 2021. On March 2, 2021, Court directed the Secretary to provide an updated status report advising the Court of the status of Petitioner's VA examinations and the Secretary filed a response on April 1, 2021. On April 8, 2021, the Court directed the Secretary to provide an updated status report advising the Court of the status of Petitioner's VA examinations and the Secretary filed a response on May 7, 2021. On May 17, 2021, the Court directed the Secretary to provide an updated status report advising the Court of the status of Petitioner's VA psychiatric examination and the Secretary filed a response on June 16, 2021. On August 3, 2021, the Court directed the Secretary, within 45 days, to provide an updated status report advising the Court of the status of Petitioner's VA psychiatric examination and to provide information regarding actions taken in light of Petitioner's housing status.

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[1] In the April 2019 Board remand, the Board indicated, under claims being remanded, that Petitioner's right knee disability claim was for service connection. Exhibit 1 at 6. However, review of the body of the remand makes clear that this was incorrect, and that Petitioner's right knee claim was for an increased rating rather than for service connection. *Id.* at 7.

Actions Regarding Petitioner's Housing Status

In the Court's August 3, 2021, Order, the Court noted that Petitioner "may be experiencing homelessness." Pursuant to the Court's Order, on August 9, 2021, the AOJ contacted Petitioner's counsel, who indicated that Petitioner is living with his parents and was not homeless. Exhibit 2. Petitioner's counsel confirmed Petitioner's contact information as correct. On September 2, 2021, the AOJ contacted Petitioner's counsel and confirmed the correct mailing address for Petitioner and updated the Veterans Benefits Management System (VBMS) with the address. Exhibit 3.

Based on the above, the Secretary has confirmed Petitioner's contact information, both for telephone and mail. Furthermore, as discussed below, the AOJ was able to schedule and provide a VA psychiatric examination for Petitioner based on the contact information available. *See infra*.

Actions Regarding Providing Petitioner's VA Psychiatric Examination

On August 23, 2021, Petitioner underwent an in-person VA psychiatric examination. Exhibit 4; Exhibit 5. Subsequent to the VA examination, the AOJ continues to develop Petitioner's claim regarding an acquired psychiatric disorder, to include soliciting information from Petitioner regarding reported stressors. Exhibit 6.

With the provision of the August 23, 2021, VA psychiatric examination, the AOJ has fulfilled the August 2019 Board remand instructions. Exhibit 1. The AOJ

continues to conduct additional development as part of its adjudication of the claims remanded by the Board in the August 2019 decision. *Id.*; Exhibit 6. In light of this information, the Secretary continues to assert the petition should be denied. *See Cheney v. U.S. Dist. Court*, 542 U.S. 367, 380-81 (2004); *see also Kerr v. United States Dist. Ct. for N. Dist. of Cal.*, 426 U.S. 394, 402 (1976).

WHEREFORE, Respondent, Secretary of Veterans Affairs, hereby notifies the Court of the actions taken by VA and continues to assert that Petitioner has failed to demonstrate a compelling basis for the issuance of extraordinary relief. Therefore, the petition should be denied.

Respectfully submitted,

RICHARD A. SAUBER
General Counsel

MARY ANN FLYNN
Chief Counsel

/s/ Drew A. Silow
DREW A. SILOW
Deputy Chief Counsel

/s/ Alexander W. You
ALEXANDER W. YOU
Appellate Attorney
U.S. Department of Veterans Affairs
Office of the General Counsel (027M)
810 Vermont Avenue, N.W.
Washington, D.C. 20420
(816) 305-7111 (teleworking)

Counsel for the Secretary of
Veterans Affairs

EXHIBIT 1

JAMES S. BRADFORD
[redacted]

BOARD OF VETERANS' APPEALS

DEPARTMENT OF VETERANS AFFAIRS

WASHINGTON, DC 20038

Date: April 11, 2019 SS [redacted] 0455

JAMES S. BRADFORD
[redacted]

Dear Appellant:

The Board of Veterans' Appeals (Board) has made a decision in your appeal, and a copy is enclosed.

If your decision contains a	*What happens next*
Grant	The Department of Veterans Affairs (VA) will be contacting you regarding the next steps, which may include issuing payment. Please refer to VA Form 4597, which is attached to this decision, for additional options.
Remand	Additional development is needed. VA will be contacting you regarding the next steps.
Denial or Dismissal	Please refer to VA Form 4597, which is attached to this decision, for your options.

If you have any questions, please contact your representative, if you have one, or check the status of your appeal at http://www.vets.gov.

Sincerely yours,

K. Osborne
Deputy Vice Chairman

Enclosures (1)
CC: Colin E. Kemmerly, Attorney

Colin E. Kemmerly, Attorney
1015 Montlimar Drive
Suite 36609
Mobile, AL 36609

BOARD OF VETERANS' APPEALS

DEPARTMENT OF VETERANS AFFAIRS

WASHINGTON, DC 20038

Date: April 11, 2019 SS [redacted] 0455

JAMES S. BRADFORD
[redacted]

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Sincerely yours,

K. Osborne
Deputy Vice Chairman

Enclosures (1)
CC: Colin E. Kemmerly, Attorney

BOARD OF VETERANS' APPEALS

DEPARTMENT OF VETERANS AFFAIRS

IN THE APPEAL OF
JAMES S. BRADFORD
REPRESENTED BY
Colin E. Kemmerly, Attorney

SS [redacted] 0455
Docket No. 14-19 545

DATE: April 11, 2019

REMANDED

Entitlement to service connection for an acquired psychiatric disorder, to include posttraumatic stress disorder (PTSD) is remanded.

Entitlement to a rating in excess of 10 percent disabling for a lower back disability is remanded.

Entitlement to a rating in excess of 10 percent disabling for a left knee disability is remanded.

Entitlement to service connection for a right knee disability is remanded.

Entitlement to a total disability rating based on individual unemployability due to service-connected disabilities (TDIU) is remanded.

REASONS FOR REMAND

Entitlement to service connection for an acquired psychiatric disorder, entitlement to an increased rating for a lower back disability, entitlement to an increased rating for a left knee disability, entitlement to an increased rating for a right knee disability, and entitlement to a TDIU are remanded.

In a March 2018 remand, the Board instructed the Agency of Original Jurisdiction (AOJ) to schedule the Veteran for VA examinations to ascertain and evaluate the severity of his service-connected back and bilateral knee disabilities, and to

address the nature and etiology of any acquired psychiatric disorder, to include PTSD.

The Board notes that the Veteran was scheduled for VA examinations concerning his claims for entitlement to service connection for an acquired psychiatric condition, entitlement to an increased rating for a lower back disability, entitlement to an increased rating for a left knee disability, entitlement to an increased rating for a right knee disability, and entitlement to service connection for an acquired psychiatric disorder in September 2018; however, the AOJ indicated in a January 2019 Supplementary Statement of the Case (SSOC) that he failed to report to the respective examinations. In a February 2019 communication, the Veteran's attorney indicated that he failed to attend the scheduled examinations because he was homeless and unable to receive notification that the examinations had been scheduled.

The record does not reflect whether the Veteran received adequate notice of the examinations at issue and thus is absent of documentation notifying the Veteran of the date, time, and place of the examinations. In addition, VA requests to schedule the subject examinations indicate that the Veteran was homeless.

Unlike other regular VA practices, there is no published guidance establishing the presumption of regularity in this situation. *See Kyhn v. Shinseki*, 716 F.3d 572, 577-78 (Fed. Cir. 2013) (explaining that the regular practice of VA officials providing notice of a VA examination is not supported by law or policy, unlike the practice to mail the Veteran notification of a rating decision, which is referenced in 38 U.S.C. § 7105(b)(1)). Therefore, there is sufficient ambiguity in the record surrounding whether the Veteran was adequately notified of the September 2018 VA examinations.

In light of the foregoing, the Board finds that remand for another attempt to afford the Veteran the requested VA examinations is warranted. The Board reminds the Veteran that the duty to assist is a two-way-street, and that VA is not obligated to "turn up heaven and earth" to find a veteran. *Wood v. Derwinski*, 1 Vet. App 190, 193 (1991); *Hyson v. Brown*, 5 Vet. App. 262 (1993). However, the record does not indicate if all reasonable means of locating the Veteran in order to provide notice have been pursued.

Additionally, the Board finds that remand is also necessary concerning the issue of entitlement to a TDIU, as it is inextricably intertwined with the other issues being remanded herein. *See Harris v. Derwinski*, 1 Vet. App. 180, 183 (1991) (two issues are "inextricably intertwined" when they are so closely tied together that a final Board decision on one issue cannot be rendered until the other issue has been considered).

The matters are REMANDED for the following action:

> 1. Contact the Veteran's attorney to request confirmation of the Veteran's contact information. Contact the appropriate VA healthcare system and the Social Security Administration and request confirmation of the Veteran's contact information. All attempts and responses must be documented in the claims file.
>
> 2. Contact the appropriate VA Medical Center(s) and obtain and associate with the claims file all outstanding records of treatment. If any requested records are not available, or the search for any such records otherwise yields negative results, that fact must clearly be documented in the claims file. Efforts to obtain these records must continue until it is determined that they do not exist or that further attempts to obtain them would be futile. The non-existence or unavailability of such records must be verified and documented for the record. Required notice must be provided to the Veteran and his attorney.
>
> 3. After completing the above actions, and if and only if the Veteran has been located and his address has been verified, schedule him for a VA examination, to ascertain and evaluate the current level of severity of his lumbar spine and bilateral knee disabilities. All indicated studies and tests should be performed. The claims folder should be made available to the examiner for review of pertinent

documents. The examination report should reflect that such a review was conducted.

If possible, the examiner should indicate how the Veteran's lumbar spine and bilateral knee disabilities impact his functional abilities.

4. If and only if the Veteran has been located and his address has been verified, schedule him for a VA examination which addresses the nature and etiology of any acquired psychiatric disorder, to include PTSD. The claims file must be provided to the examiner for review. All indicated tests and studies should be performed. The claims folder should be provided to the examiner for review of pertinent documents. The examination report should reflect that such a review was conducted.

a) Diagnose any current psychiatric disorder, including PTSD.

b) The examiner is asked to provide an opinion as to whether it is at least as likely as not (50 percent or more probability) that any psychiatric disorder, including PTSD, diagnosed at any time during the course of the appeal, had its onset in or is etiologically-related to the Veteran's active duty service. If a psychosis is diagnosed, the examiner should indicate whether it was manifested within one year after the Veteran's period of active duty.

c) If the Veteran has a diagnosis of PTSD, the examiner should address the Veteran's in-service stressor(s), to include whether PTSD is related to fear of hostile military or terrorist activity.

d) If the answer to part (b) above is "no," is it at least as likely as not (50 percent probability or more) that any psychiatric disorder, is (a) proximately due to or the result of the Veteran's service-connected disabilities, or (b) aggravated or worsened by his service-connected disabilities? If it is determined that the psychiatric disorder is related to any service-connected disability, to the extent possible, the examiner should indicate the approximate degree of disability or baseline before the onset of aggravation.

The term "at least as likely as not" does not mean within the realm of medical possibility, but rather the weight of medical evidence both for and against a conclusion is so evenly divided that it is as medically sound to find in favor of that conclusion as it is to find against it.

The term "aggravated" in the above context refers to a permanent worsening of the underlying condition, as contrasted to temporary or intermittent flare-ups of symptomatology which resolve with return to the baseline level of disability. The requested opinions on aggravation should be premised on the baseline level of severity of the disorder before the onset of aggravation, or by the earliest medical evidence created at any time between the onset of aggravation and the examiner's current findings.

IN THE APPEAL OF
JAMES S. BRADFORD

SS [redacted] 0455
Docket No. 14-19 545

> If an opinion cannot be rendered without resorting to speculation, the physician should explain why it would be speculative to respond.

M. H. HAWLEY
Veterans Law Judge
Board of Veterans' Appeals

ATTORNEY FOR THE BOARD S. Ferguson, Associate Counsel

EXHIBIT 2

OMB Control No. 2900--0734
Respondent Burden: 5 minutes
Expiration Date: 07/31/2021

Department of Veterans Affairs

REPORT OF GENERAL INFORMATION

NOTE - This form must be filled out in ink or on a typewriter or computer, as it becomes a permanent record in the veteran's folder.

1. VA OFFICE: 397

2. IDENTIFICATION NUMBERS *(C, XC, SS, XSS, V, K, etc.)*: [redacted]0455

3. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN *(Type or print)*: BRADFORD JAMES S

4. DATE OF CONTACT *(Month, day, year)*: 08/09/2021

5. ADDRESS OF VETERAN *(Include number and street or rural route, city or P.O., State and ZIP Code)*: [redacted]

6A. TELEPHONE NUMBER OF VETERAN *(Include Area Code)*: [redacted]5016 [redacted]5016

6B. E-MAIL ADDRESS *(If applicable)*: [redacted]@gmail.com

7. NAME OF PERSON CONTACTED: Jan

8. TYPE OF CONTACT: ☐ PERSONAL ☒ TELEPHONE

9. ADDRESS OF PERSON CONTACTED: Gardberg and Clausen, P. C. 1015 Montlimar Driv

10. TELEPHONE NUMBER OF PERSON CONTACTED *(Include Area Code)*: 251-343-1111

☒ I certify that I properly identified my caller using the ID Protocol

11. BRIEF STATEMENT OF INFORMATION REQUESTED AND GIVEN:

1. The attorney's office verified the Veteran's contact information as correct.
2. The attorney does not believe the Veteran is homeless. He currently lives with his parents.
3. I notified them of the upcoming PTSD exam scheduled for August 23, 2021 with Dr. Jack C. Carney at 2054 Dauphin St, Mobile, AL 36606 at 1:30pm.
4. The attorney will send a letter to the Veteran to update him of the appointment details. They will also send a copy of that letter to VA.

Notification of Action

☒ I read the following statement to the caller:

"I am a VA employee who is authorized to receive or request evidentiary information or statements that may result in a change in your VA benefits. The primary purpose for gathering this information or statement is to make an eligibility determination. It is subject to verification through computer matching programs with other agencies."

cc: POA *(If applicable)*: 452 - COLIN E KEMMERLY

DIVISION OR SECTION: DRPDEV Team 2

EXECUTED BY *(Signature and title)*: VBAWASCOLEMD Awards VSR 397

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 5, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA/21/22/28 Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to respond to the questions on this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

EXHIBIT 3

OMB Control No. 2900--0734
Respondent Burden: 5 minutes
Expiration Date: 07/31/2021

Department of Veterans Affairs

REPORT OF GENERAL INFORMATION

NOTE - This form must be filled out in ink or on a typewriter or computer, as it becomes a permanent record in the veteran's folder.

1. VA OFFICE: 397

2. IDENTIFICATION NUMBERS *(C, XC, SS, XSS, V, K, etc.)*: [redacted]0455

3. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN *(Type or print)*: BRADFORD JAMES S

4. DATE OF CONTACT *(Month, day, year)*: 09/02/2021

5. ADDRESS OF VETERAN *(Include number and street or rural route, city or P.O., State and ZIP Code)*: [redacted]

6A. TELEPHONE NUMBER OF VETERAN *(Include Area Code)*: [redacted]5016 [redacted]5016

6B. E-MAIL ADDRESS *(If applicable)*: [redacted]@gmail.com

7. NAME OF PERSON CONTACTED: Jan Lipske

8. TYPE OF CONTACT: ☐ PERSONAL ☒ TELEPHONE

9. ADDRESS OF PERSON CONTACTED: Gardberg and Clausen, P. C. 1015 Montlimar Driv

10. TELEPHONE NUMBER OF PERSON CONTACTED *(Include Area Code)*: 251-343-1111

☐ I certify that I properly identified my caller using the ID Protocol

11. BRIEF STATEMENT OF INFORMATION REQUESTED AND GIVEN:

The attorney's office verified the Veteran's contact information by certified U.S. Mail as:

James S. Bradford
[redacted]

The address will be updated in VBMS.

*An attempt was made to contact the Veteran at [redacted]-5016. His voicemail was reached, but a message could not be left as his voicemail was full.

Notification of Action

☒ I read the following statement to the caller:

"I am a VA employee who is authorized to receive or request evidentiary information or statements that may result in a change in your VA benefits. The primary purpose for gathering this information or statement is to make an eligibility determination. It is subject to verification through computer matching programs with other agencies."

cc: POA *(If applicable)*: 452 - COLIN E KEMMERLY

DIVISION OR SECTION: DRPDEV Team 2

EXECUTED BY *(Signature and title)*: VBAWASCOLEMD Awards VSR 397

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 5, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA/21/22/28 Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to respond to the questions on this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

EXHIBIT 4

Department of Veterans Affairs

INTERNAL VETERANS AFFAIRS USE
INITIAL POST TRAUMATIC STRESS DISORDER (PTSD) DISABILITY BENEFITS QUESTIONNAIRE

IMPORTANT – THE DEPARTMENT OF VETERANS AFFAIRS (VA) ***WILL NOT PAY OR REIMBURSE*** ANY EXPENSES OR COST INCURRED IN THE PROCESS OF COMPLETING AND/OR SUBMITTING THIS FORM. PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN INFORMATION BEFORE COMPLETING THIS FORM.

NAME OF PATIENT/VETERAN	PATIENT/VETERAN'S SOCIAL SECURITY NUMBER
BRADFORD, JAMES	XXX-XX-0455

Your patient is applying to the U. S. Department of Veterans Affairs (VA) for disability benefits. VA will consider the information you provide on this questionnaire as part of their evaluation in processing the Veteran's claim. Please note that this questionnaire is for disability evaluation, not for treatment purposes. This evaluation should be based on DSM-5 diagnostic criteria.

NOTE: If the Veteran experiences a mental health emergency during the interview, please terminate the interview and obtain help, using local resources as appropriate. You may also contact the Veterans Crisis Line at 1-800-273-TALK (8255). Stay on the Crisis Line until help can link the Veteran to emergency care.

Mental Health professionals with the following credentials are qualified to perform review C&P examinations for mental disorders. They are: a Board Certified psychiatrist; psychiatrist who have successfully completed an accredited psychiatry residency and who are appropriately credential and privileged; licensed doctorate-level psychologist; non-licensed doctorate level psychologists working toward licensure under close supervision by a board certified or board eligible psychiatrist or licensed doctoral level psychologist; psychiatry resident under close supervision by a board-certified or board eligible psychiatrist or licensed doctoral level psychologist; psychology residents under close supervision by a board eligible psychiatrist or a licensed doctoral level psychologist. .

Note: Close supervision means that the supervising psychiatrist or psychologist met with the Veteran and conferred with the examining mental health professional in providing the diagnosis and the final assessment. The supervising psychiatrist or psychologist co-signs the examination report.

IS THIS DBQ BEING COMPLETED IN CONJUNCTION WITH A VA21-2507, C&P EXAMINATION REQUEST?

☒ YES ☐ NO

How was the examination completed (check all that apply)?

☒ In-person examination
☐ Examination via approved video telehealth
☐ Other, please specify in comments box:

Comments:

SECTION I – DIAGNOSTIC SUMMARY

1. DIAGNOSTIC SUMMARY

This section should be completed based on the current examination and clinical findings.

DOES THE VETERAN HAVE A DIAGNOSIS OF PTSD THAT CONFORMS TO DSM-5 CRITERIA BASED ON TODAY'S EVALUATION?

☒ YES ☐ NO ICD CODE: F43.1

If no diagnosis of PTSD, check all that apply:

☐ Veteran's symptoms do not meet the diagnostic criteria for PTSD under DSM-5 criteria
☐ Veteran does not have a mental disorders that conforms with DSM-5 criteria
☐ Veteran has another mental disorder diagnosis. Continue to complete this Questionnaire and/or the Eating Disorders Questionnaire

2. CURRENT DIAGNOSES

2A. Mental Disorders Diagnosis #1: PTSD
ICD CODE: F43.12
COMMENTS, IF ANY:

Mental Disorders Diagnosis #2:
ICD CODE:
COMMENTS, IF ANY:

Mental Disorders Diagnosis #3:
ICD CODE:
COMMENTS, IF ANY:

Mental Disorders Diagnosis #4:
ICD CODE:
COMMENTS, IF ANY:

IF ADDITIONAL DIAGNOSES, DESCRIBE USING ABOVE FORMAT:

2B. MEDICAL DIAGNOSES RELEVANT TO THE UNDERSTANDING OR MANAGEMENT OF THE MENTAL HEALTH DISORDER *(to include TBI)*:

ICD CODE:

COMMENTS, IF ANY:

3. DIFFERENTIATION OF SYMPTOMS

3A. DOES THE VETERAN HAVE MORE THAN ONE MENTAL DISORDER DIAGNOSED?

☐ YES ☒ NO *(If "Yes," complete Item 3B)*

3B. IS IT POSSIBLE TO DIFFERENTIATE WHAT SYMPTOM(S) IS/ARE ATTRIBUTABLE TO EACH DIAGNOSIS?

☐ YES ☐ NO ☒ NOT APPLICABLE

(If "No," provide reason):

(If "Yes," list which symptoms are attributable to each diagnosis and discuss whether there is any clinical association between these diagnoses):

3C. DOES THE VETERAN HAVE A DIAGNOSED TRAUMATIC BRAIN INJURY *(TBI)*?

☐ YES ☐ NO ☒ NOT SHOWN IN RECORDS REVIEWED *(If "Yes," complete Item 3D)*

(Comments, if any):

3D. IS IT POSSIBLE TO DIFFERENTIATE WHAT SYMPTOM(S) IS/ARE ATTRIBUTABLE TO TBI AND ANY NON-TBI MENTAL HEALTH DIAGNOSIS?

☐ YES ☐ NO ☒ NOT APPLICABLE

(If "No," provide reason):

(If "Yes," list which symptoms are attributable to TBI and which symptoms are attributable to a non-TBI mental health diagnosis):

4. OCCUPATIONAL AND SOCIAL IMPAIRMENT

4A. WHICH OF THE FOLLOWING BEST SUMMARIZES THE VETERAN'S LEVEL OF OCCUPATIONAL AND SOCIAL IMPAIRMENT WITH REGARDS TO ALL MENTAL DIAGNOSES? *(Check only one)*

☐ NO MENTAL DISORDER DIAGNOSIS

☐ A MENTAL CONDITION HAS BEEN FORMALLY DIAGNOSED, BUT SYMPTOMS ARE NOT SEVERE ENOUGH EITHER TO INTERFERE WITH OCCUPATIONAL AND SOCIAL FUNCTIONING OR TO REQUIRE CONTINUOUS MEDICATION

☐ OCCUPATIONAL AND SOCIAL IMPAIRMENT DUE TO MILD OR TRANSIENT SYMPTOMS WHICH DECREASE WORK EFFICIENCY AND ABILITY TO PERFORM OCCUPATIONAL TASKS ONLY DURING PERIODS OF SIGNIFICANT STRESS, OR SYMPTOMS CONTROLLED BY MEDICATION

☒ OCCUPATIONAL AND SOCIAL IMPAIRMENT WITH OCCASIONAL DECREASE IN WORK EFFICIENCY AND INTERMITTENT PERIODS OF INABILITY TO PERFORM OCCUPATIONAL TASKS, ALTHOUGH GENERALLY FUNCTIONING SATISFACTORILY, WITH NORMAL ROUTINE BEHAVIOR, SELF-CARE AND CONVERSATION

☐ OCCUPATIONAL AND SOCIAL IMPAIRMENT WITH REDUCED RELIABILITY AND PRODUCTIVITY

☐ OCCUPATIONAL AND SOCIAL IMPAIRMENT WITH DEFICIENCIES IN MOST AREAS, SUCH AS WORK, SCHOOL, FAMILY RELATIONS, JUDGMENT, THINKING AND/OR MOOD

☐ TOTAL OCCUPATIONAL AND SOCIAL IMPAIRMENT

4B. FOR THE INDICATED OCCUPATIONAL AND SOCIAL IMPAIRMENT, IS IT POSSIBLE TO DIFFERENTIATE WHICH IMPAIRMENT IS CAUSED BY EACH MENTAL DISORDER?

☐ YES ☐ NO ☒ NOT APPLICABLE

(If "No," provide reason):

(If "Yes," list which occupational and social impairment is attributable to each diagnosis):

4C. IF A DIAGNOSIS OF TBI EXISTS, IS IT POSSIBLE TO DIFFERENTIATE WHICH OCCUPATIONAL AND SOCIAL IMPAIRMENT INDICATED ABOVE IS CAUSED BY THE TBI?

☐ YES ☐ NO ☒ NOT APPLICABLE

(If "No," provide reason):

(If "Yes," list which impairment is attributable to TBI and which is attributable to any non-TBI mental health diagnosis):

SECTION II – CLINICAL FINDINGS

1. EVIDENCE REVIEW

In order to provide an accurate medical opinion, the Veteran's claims folder must be reviewed.
Evidence reviewed (check all that apply):

- ☐ Not requested
- ☐ No records were reviewed
- ☐ VA claims file (hard copy paper C-file)
- ☒ VA e-folder
- ☐ CPRS
- ☐ Other (please identify other evidence reviewed):

Evidence Comments:
Positive PTSD screen 06.03.2015;

05/07/08 SWS MENTAL HEALTH/MHICM ASSESSMENT:
REASON FOR ADMISSION: Mr. Bradford was admitted to 19-2 inpatient psychiatry on 5-5-08 with a diagnosis of Major Depressive Disorder. Veteran reports becoming angry with parents on yesterday however per chart, veteran was admitted to VAMC due to threatening to shoot self and mother but pointing gun.

A: GAD
Major depression, severe, with psychotic features, in remission
Adjustment disorder with mixed emotional features, resolved by reconciliation with family
Mood disorder due to GMC (chronic pain), improved, on analgesics
REM behavioral disorder
R/O OCD
GAF = 43
/es/ DANIEL DANSAK
MD
Signed: 05/02/2008

Imp: I: :Depression N.O.S.
PTSD
Mood Disorder due to General medical condition
/es/ MOHAMMED ASHRAF
Signed: 11/30/2004 15:06
/es/ MAGDY RAGHEB
M.D.
Cosigned: 11/30/2004

2. HISTORY

NOTE: Initial examinations require pre-military, military, and post-military history. If this is a review examination, only indicate any relevant history since prior exam.

2A. RELEVANT SOCIAL/MARITAL/FAMILY HISTORY (pre-military, military, and post-military):

The pre-military social/marital/family history is: Veteran was raised in Semmes AL by his parents. He has two siblings. The military social/marital/family history is: The Veteran described military psychosocial and dating relationships or marital functioning as adequate. The post-military social/marital/family history is: Veteran is not married. He has two daughters. He is closest with his mother and father. He noted he does not like to socialize much, "If they dont come to the house they don't see me."

2B. RELEVANT OCCUPATIONAL AND EDUCATIONAL HISTORY (pre-military, military, and post-military):

The pre-military occupational and educational history is: He noted his grades were average. Veteran worked full time before the military. The military occupational and educational history is: Veteran was 25 years old when he joined the Navy. He served for 9 years. He deployed to Iraq in "1997-1998 and 2000-2001." The post-military occupational and educational history is: Veteran noted he does not work. He noted, "I'm disabled."

2C. RELEVANT MENTAL HEALTH HISTORY, TO INCLUDE PRESCRIBED MEDICATIONS AND FAMILY MENTAL HEALTH (pre-military, military, and post-military):

The pre-military mental health history is: The Veteran denied any childhood/pre-military mental health issues, if any, including ADD, dyslexia, any other MH diagnosis. The military mental health history is: Veteran reported he did not receive mental health treatment while in the service. The post-military mental health history is: Veteran is not seeing a therapist. He denied taking mental health medication. He noted, "Here lately I've been noticving it more and more. I can watch something funny, break down crying. I don't get it." He became tearful. He noted "I don't see my kids. Thinking about stuff I did over there."

2D. RELEVANT LEGAL AND BEHAVIORAL HISTORY (pre-military, military, and post-military):

The pre-military legal and behavioral history is: Regarding pre-military legal, Veteran reported no legal or behavioral problems with violence, gambling, Protection from Abuse orders, DUIs, etc. The military legal and behavioral history is: Regarding military legal, Veteran reported no legal or behavioral problems (Article 15, courts – martial, etc.) with violence, gambling, Protection from Abuse orders, DUIs, etc. The post-military legal and behavioral history is: Veteran was arrested "about a year ago, believe it or not, nothing. I was riding in the car with a girl with paraphanelia. I didn't do nothing she even told them it was hers."

2E. RELEVANT SUBSTANCE ABUSE HISTORY (pre-military, military, and post-military):

The pre-military substance abuse history is:Veteran denied any use of alcohol/drugs prior to military service. The military substance abuse history is: Veteran denied any abuse of alcohol/drugs, rehabilitation, etc. during military service. The post-military substance abuse history is: Veteran noted he smokes a pack of cigarettes every two-three days. He denied alcohol use. He noted a history of substance abuse "about a year ago. Morphine... Pain. Trying to get off painkillers. Morphine. The withdrawals from that was ungodly."

2F. OTHER *(If any):*

He added, "I had a snake come in my house last night. I got signs posted at all the entrances "No snakes allowed" but he still came in. He had to be put to death. Scared me." He laughed.

3. STRESSORS

The stressful event can be due to combat, personal trauma, other life threatening situations (non-combat related stressors).

NOTE: For VA purposes, "fear of hostile military or terrorist activity" means that a Veteran experienced, witnessed, or was confronted with an event or circumstance that involved actual or threatened death or serious injury, or a threat to the physical integrity of the Veteran or others, such as from an actual or potential improvised explosive device; vehicle-imbedded explosive device; incoming artillery, rocket, or mortar fire; grenade; small arms fire, including suspected sniper fire; or attack upon friendly military aircraft.

Describe one or more specific stressor event (s) the Veteran considers traumatic (may be pre-military, military, or post-military):

3A. Stressor #1

Veteran was very tearful and circumspect. "I sunk a boat... And it had two kids and a mom and dad on it." He noted this was his deployment in 1997-1998. He noted it occured in the Red Sea. He noted he feels torn up about it.

Does this stressor meet Criterion A (i.e., is it adequate to support the diagnosis of PTSD)?

☒ YES ☐ NO

Is the stressor related to the Veteran's fear of hostile military or terrorist activity?

☐ YES ☒ NO

If no, explain:

Not due to fear of hostile military activity.

Is the stressor related to in-service personal assault, e.g. military sexual trauma?

☐ YES ☒ NO

If yes, please describe the markers that may substantiate the stressor.

3B. Stressor #2

He noted he was Military Police in Key West. "You would think nothing would happen there... I seen a guy blow his brains out. Took him two times to do it. Shot himself in the face the first time. Then blew the top of his head out. A Coast guard guy... He killed himself. Another guy had a heart attack. Handling the body... It was awful." He witnessed this and it still haunts him.

Does this stressor meet Criterion A (i.e., is it adequate to support the diagnosis of PTSD)?

☒ YES ☐ NO

Is the stressor related to the Veteran's fear of hostile military or terrorist activity?

☐ YES ☒ NO

If no, explain:

Stateside. Was Military Police.

Is the stressor related to in-service personal assault, e.g., military sexual trauma?

☐ YES ☒ NO

If yes, please describe the markers that may substantiate the stressor.

3. STRESSORS

3C. Stressor #3

Does this stressor meet Criterion A (i.e., is it adequate to support the diagnosis of PTSD)?

☐ YES ☐ NO

Is the stressor related to the Veteran's fear of hostile military or terrorist activity?

☐ YES ☐ NO

If no, explain:

Is the stressor related to in-service personal assault, e.g., military sexual trauma?

☐ YES ☐ NO

If yes, please describe the markers that may substantiate the stressor.

3D. Additional Stressors: If additional stressors, describe (list using above sequential format)

4. PTSD DIAGNOSTIC CRITERIA

NOTE: Please check criteria used for establishing the current PTSD diagnosis. Do **NOT** mark symptoms below that are clearly not attributable to the Criteria A stressor/PTSD. Instead, overlapping symptoms clearly attributable to other things should be noted under #7 - Other symptoms. The diagnostic criteria for PTSD, referred to as Criteria A-H, are from the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5).

Criterion A: Exposure to actual or threatened a) death, b) serious injury, c) sexual violation, in one or more of the following ways:

☒ Directly experiencing the traumatic event(s)

☒ Witnessing, in person, the traumatic event(s) as they occurred to others

☒ Learning that the traumatic event(s) occurred to a close family member or close friend; cases of actual or threatened death must have been violent or accidental; or, experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (e.g., first responders collecting human remains; police officers repeatedly exposed to details of child abuse); this does not apply to exposure through electronic media, television, movies, or pictures, unless this exposure is work related

☐ No criterion in this section met.

4. PTSD DIAGNOSTIC CRITERIA

Criterion B: Presence of (one or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred

- ☒ Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).
- ☒ Recurrent distressing dreams in which the content and/or affect of the dream are related to the traumatic event(s).
- ☐ Dissociative reactions (e.g., flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings.)
- ☒ Intense or prolonged psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
- ☒ Marked physiological reactions to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
- ☐ No criterion in this section met.

Criterion C: Persistent avoidance of stimuli associated with the traumatic event(s), beginning after traumatic event(s) occurred, as evidence of one or both of the following:

- ☒ Avoidance of or efforts to avoid distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
- ☒ Avoidance of or efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
- ☐ No criterion in this section met.

Criterion D: Negative alterations in cognitions and mood associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

- ☐ Inability to remember an important aspect of the traumatic event(s) (typically due to dissociative amnesia and not to other factors such as head injury, alcohol, or drugs).
- ☒ Persistent and exaggerated negative beliefs or expectations about oneself, others, or the world (e.g., “I am bad,: “No one can be trusted,: “The world is completely dangerous,: “My whole nervous system is permanently ruined”).
- ☐ Persistent, distorted cognitions about the cause or consequences of the traumatic event(s) that lead to the individual to blame himself/herself or others.
- ☒ Persistent negative emotional state (e.g., fear, horror, anger, guilt, or shame).
- ☒ Markedly diminished interest or participation in significant activities.
- ☒ Feelings of detachment or estrangement from others.
- ☐ Persistent inability to experience positive emotions (e.g., inability to experience happiness, satisfaction, or loving feelings.)
- ☐ No criterion in this section met.

Criterion E: Marked alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

- ☒ Irritable behavior and angry outbursts (with little or no provocation) typically expressed as verbal or physical aggression toward people or objects.
- ☐ Reckless or self-destructive behavior.
- ☒ Hypervigilance.
- ☐ Exaggerated startle response.
- ☐ Problems with concentration.
- ☒ Sleep disturbance (e.g., difficulty falling or staying asleep or restless sleep).
- ☐ No criterion in this section met.

Criterion F:

- ☒ Duration of the disturbance (Criteria B, C, D, and E) is more than 1 month.
- ☐ No criterion in this section met.

Criterion G:

- ☒ The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- ☐ No criterion in this section met.

Criterion H:

- ☒ The disturbance is not attributable to the physiological effects of a substance (e.g., medication, alcohol) or another medical condition.
- ☐ No criterion in this section met.

Criterion I: Which stressor(s) contributed to the Veterans PTSD diagnosis?:

- ☒ Stressor #1
- ☒ Stressor #2
- ☐ Stressor #3
- ☐ Other, please indicate stressor number (i.e. stressor #5, #6, etc.) as indicated above:

- ☐ No criterion in this section met.

5. SYMPTOMS

FOR VA RATING PURPOSES, CHECK ALL SYMPTOMS THAT APPLY TO THE VETERAN'S DIAGNOSES:

- ☒ Depressed mood
- ☒ Anxiety
- ☒ Suspiciousness
- ☒ Panic attacks that occur weekly or less often
- ☐ Panic attacks more than once a week
- ☐ Near-continuous panic or depression affecting the ability to function independently, appropriately and effectively
- ☒ Chronic sleep impairment
- ☐ Mild memory loss, such as forgetting names, directions or recent events
- ☐ Impairment of short and long term memory, for example, retention of only highly learned material, while forgetting to complete tasks
- ☐ Memory loss for names of close relatives, own occupation, or own name
- ☒ Flattened affect
- ☐ Circumstantial, circumlocutory or stereotyped speech
- ☐ Speech intermittently illogical, obscure, or irrelevant
- ☐ Difficulty in understanding complex commands
- ☐ Impaired judgment
- ☐ Impaired abstract thinking
- ☐ Gross impairment in thought processes or communication
- ☒ Disturbances of motivation and mood
- ☒ Difficulty in establishing and maintaining effective work and social relationships
- ☒ Difficulty adapting to stressful circumstances, including work or a work like setting
- ☐ Inability to establish and maintain effective relationships
- ☐ Suicidal ideation
- ☐ Obsessional rituals which interfere with routine activities
- ☐ Impaired impulse control, such as unprovoked irritability with periods of violence
- ☐ Spatial disorientation
- ☐ Persistent delusions or hallucinations
- ☐ Grossly inappropriate behavior
- ☐ Persistent danger of hurting self or others
- ☐ Neglect of personal appearance and hygiene
- ☐ Intermittent inability to perform activities of daily living, including maintenance of minimal personal hygiene
- ☐ Disorientation to time or place

6. BEHAVIORAL OBSERVATIONS

Veteran's affect was flat. He was tearful at times. Eye contact was good.

7. OTHER SYMPTOMS

DOES THE VETERAN HAVE ANY OTHER SYMPTOMS ATTRIBUTABLE TO PTSD (AND OTHER MENTAL DISORDERS) THAT ARE NOT LISTED ABOVE?

☐ YES ☒ NO *(If "Yes," describe):*

8. COMPETENCY

IS THE VETERAN CAPABLE OF MANAGING HIS OR HER FINANCIAL AFFAIRS?

☒ YES ☐ NO *(If "No," explain):*

9. REMARKS, (including any testing results) IF ANY

For the claimant's claimed condition of post traumatic stress disorder please refer to the diagnosis section.

The suicide risk level is not at elevated acute risk.

DESIGNATED VA MATERIAL REGARDING VETERAN / MILITARY CRISIS CONTACT INFORMATION HAS BEEN PROVIDED TO THE VETERAN / SERVICEMEMBER.

SECTION III – PSYCHIATRIST/PSYCHOLOGIST CERTIFICATION AND SIGNATURE

CERTIFICATION - To the best of my knowledge, the information contained herein is accurate, complete and current.

10A. PSYCHIATRIST/PSYCHOLOGIST SIGNATURE AND TITLE	10B. PSYCHIATRIST/PSYCHOLOGIST PRINTED NAME	10C. DATE SIGNED
Jack C. Carney, Ph.D. b2133b2a-eabf-4cc7-b42b-677e88b8780d	CARNEY JACK C. PH.D Psychology	8/23/2021 (UTC)

10D. PSYCHIATRIST/PSYCHOLOGIST PHONE AND FAX NUMBERS	10E. PSYCHIATRIST/PSYCHOLOGIST NATIONAL PROVIDER IDENTIFIER (NPI) NUMBER	10F. MEDICAL LICENSE NUMBER AND STATE
2516354541 9497053602	1386617512	1374 AL

10G. PSYCHIATRIST/PSYCHOLOGIST ADDRESS
2054 DAUPHIN ST MOBILE AL 36606

EXHIBIT 5

Department of Veterans Affairs

INTERNAL VETERANS AFFAIRS USE

MEDICAL OPINION DISABILITY BENEFITS QUESTIONNAIRE

IMPORTANT – THE DEPARTMENT OF VETERANS AFFAIRS (VA) WILL ***NOT PAY*** OR ***REIMBURSE*** ANY EXPENSES OR COST INCURRED IN THE PROCESS OF COMPLETING AND/OR SUBMITTING THIS FORM. PLEASE READ THE PRIVACY ACT AND RESPONDENT BURDEN INFORMATION ON REVERSE BEFORE COMPLETING FORM.

NAME OF PATIENT/VETERAN	PATIENT/VETERAN'S SOCIAL SECURITY NUMBER
BRADFORD, JAMES	XXX-XX-0455

Note to examiner - The Veteran is applying to the U.S. Department of Veterans Affairs (VA) for disability benefits. VA will consider the information you provide on this questionnaire as part of their evaluation in processing the Veteran's claim.

Is this questionnaire being completed in conjunction with a VA 21-2507, C&P examination request? ☒ YES ☐ NO

How was the examination completed? (check all that apply)

☒ In-person examination

☐ Records reviewed

☐ Examination via approved video telehealth

☐ Other, please specify in comments box:

Comments:

ACCEPTABLE CLINICAL EVIDENCE (ACE)

Indicate the method used to obtain medical information to complete this document:

☐ Review of available records (without in-person or video telehealth examination) using the Acceptable Clinical Evidence (ACE) process because the existing medical evidence provided sufficient information on which to prepare the questionnaire and such an examination will likely provide no additional relevant evidence.

☐ Review of available records in conjunction with an interview with the Veteran (without in-person or telehealth examination) using the ACE process because the existing medical evidence supplemented with an interview provided sufficient information on which to prepare the questionnaire and such an examination would likely provide no additional relevant evidence.

EVIDENCE REVIEW

EVIDENCE REVIEWED *(check all that apply):*

☐ Not requested

☐ VA claims file (hard copy paper C-file)

☒ VA e-folder

☐ VA electronic health record

☐ Other (please identify other evidence reviewed):

☐ No records were reviewed

EVIDENCE COMMENTS:

Positive PTSD screen 06.03.2015;

05/07/08 SWS MENTAL HEALTH/MHICM ASSESSMENT:

REASON FOR ADMISSION: Mr. Bradford was admitted to 19-2 inpatient psychiatry on 5-5-08 with a diagnosis of Major Depressive Disorder. Veteran reports becoming angry with parents on yesterday however per chart, veteran was admitted to VAMC due to threatening to shoot self and mother but pointing gun.

A: GAD

Major depression, severe, with psychotic features, in remission

Adjustment disorder with mixed emotional features, resolved by reconciliation with family

Mood disorder due to GMC (chronic pain), improved, on analgesics

REM behavioral disorder

R/O OCD

GAF = 43

/es/ DANIEL DANSAK

MD

Signed: 05/02/2008

Imp: I: :Depression N.O.S.

PTSD

Mood Disorder due to General medical condition

/es/ MOHAMMED ASHRAF

Signed: 11/30/2004 15:06

/es/ MAGDY RAGHEB

M.D.

Cosigned: 11/30/2004

SECTION I – DEFINITIONS

AGGRAVATION OF PREEXISTING NONSERVICE-CONNECTED DISABILITIES. A PREEXISTING INJURY OR DISEASE WILL BE CONSIDERED TO HAVE BEEN AGGRAVATED BY ACTIVE MILITARY, NAVAL, OR AIR SERVICE, WHERE THERE IS AN INCREASE IN DISABILITY DURING SUCH SERVICE, UNLESS THERE IS A SPECIFIC FINDING THAT THE INCREASE IN DISABILITY IS DUE TO THE NATURAL PROGRESS OF THE DISEASE.

AGGRAVATION OF NONSERVICE-CONNECTED DISABILITIES. ANY INCREASE IN SEVERITY OF A NONSERVICE-CONNECTED DISEASE OR INJURY THAT IS PROXIMATELY DUE TO OR THE RESULT OF A SERVICE-CONNECTED DISEASE OR INJURY, AND NOT DUE TO THE NATURAL PROGRESS OF THE NONSERVICE-CONNECTED DISEASE, WILL BE SERVICE CONNECTED.

SECTION II - RESTATEMENT OF REQUESTED OPINION

2A. INSERT REQUESTED OPINION FROM GENERAL REMARKS:

Does the Veteran have a diagnosis of post traumatic stress disorder that is at least as likely as not (50 percent or greater probability) incurred in or caused by (the) Anxiety, Depression, OCD, PTSD during service? Rationale must be provided in the appropriate section.

2B. INDICATE TYPE OF EXAM FOR WHICH OPINION HAS BEEN REQUESTED (e.g. skin diseases):

DBQ PSYCH PTSD Review

SECTION III – MEDICAL OPINION FOR DIRECT SERVICE CONNECTION

CHOOSE THE STATEMENT THAT MOST CLOSELY APPROXIMATES THE ETIOLOGY OF THE CLAIMED CONDITION.

☒ 3A. THE CLAIMED CONDITION WAS AT LEAST AS LIKELY AS NOT *(50 percent or greater probability)* INCURRED IN OR CAUSED BY THE CLAIMED IN-SERVICE INJURY, EVENT, OR ILLNESS. PROVIDE RATIONALE IN SECTION C.

☐ 3B.THE CLAIMED CONDITION WAS LESS LIKELY THAN NOT (less than 50 percent probability) INCURRED IN OR CAUSED BY THE CLAIMED IN-SERVICE INJURY, EVENT, OR ILLNESS. PROVIDE RATIONALE IN SECTION C.

3C. RATIONALE:

Veteran had no mental health issues prior to service. Veteran now has clear symptoms of PTSD, identified in the report, which are related to the claimed/identified in service stressors related to the Anxiety, Depression, OCD, PTSD during military service. Medical records support diagnosis of PTSD. Symptoms for PTSD meet DSM-V criteria for the disorder. The Veteran's claimed post-traumatic stress disorder, is at least as likely as not (50 percent or greater probability) incurred in or caused by the circumstances, conditions and hardships, of Veteran's military service

SECTION IV - MEDICAL OPINION FOR SECONDARY SERVICE CONNECTION

☐ 4A. THE CLAIMED CONDITION IS AT LEAST AS LIKELY AS NOT *(50 percent or greater probability)* PROXIMATELY DUE TO OR THE RESULT OF THE VETERAN'S SERVICE CONNECTED CONDITION. PROVIDE RATIONALE IN SECTION C.

☐ 4B. THE CLAIMED CONDITION IS LESS LIKELY THAN NOT *(less than 50 percent probability)* PROXIMATELY DUE TO OR THE RESULT OF THE VETERAN'S SERVICE CONNECTED CONDITION. PROVIDE RATIONALE IN SECTION C.

4C. RATIONALE:

SECTION V - MEDICAL OPINION FOR AGGRAVATION OF A CONDITION THAT EXISTED PRIOR TO SERVICE

☐ 5A. THE CLAIMED CONDITION, WHICH CLEARLY AND UNMISTAKABLY EXISTED PRIOR TO SERVICE, WAS AGGRAVATED BEYOND ITS NATURAL PROGRESSION BY AN IN-SERVICE INJURY, EVENT, OR ILLNESS. PROVIDE RATIONALE IN SECTION C.

☐ 5B. THE CLAIMED CONDITION, WHICH CLEARLY AND UNMISTAKABLY EXISTED PRIOR TO SERVICE, WAS CLEARLY AND UNMISTAKABLY NOT AGGRAVATED BEYOND ITS NATURAL PROGRESSION BY AN IN-SERVICE INJURY, EVENT, OR ILLNESS. PROVIDE RATIONALE IN SECTION C.

5C. RATIONALE:

SECTION VI - MEDICAL OPINION FOR AGGRAVATION OF A NONSERVICE CONNECTED CONDITION BY A SERVICE CONNECTED CONDITION

6A. CAN YOU DETERMINE A BASELINE LEVEL OF SEVERITY OF *(claimed condition/diagnosis)* BASED UPON MEDICAL EVIDENCE AVAILABLE PRIOR TO AGGRAVATION OR THE EARLIEST MEDICAL EVIDENCE FOLLOWING AGGRAVATION BY *(service connected condition)*?

☐ YES ☐ NO

IF "YES" TO QUESTION 6A, ANSWER THE FOLLOWING:

I. DESCRIBE THE BASELINE LEVEL OF SEVERITY OF *(claimed condition/diagnosis)* BASED UPON MEDICAL EVIDENCE AVAILABLE PRIOR TO AGGRAVATION OR THE EARLIEST MEDICAL EVIDENCE FOLLOWING AGGRAVATION BY *(service connected condition)*:

II. PROVIDE THE DATE AND NATURE OF THE MEDICAL EVIDENCE USED TO PROVIDE THE BASELINE:

III. IS THE CURRENT SEVERITY OF THE *(claimed condition/diagnosis)* GREATER THAN THE BASELINE?

☐ YES ☐ NO

IF YES, WAS THE VETERAN'S *(claimed condition/diagnosis)* AT LEAST AS LIKELY AS NOT AGGRAVATED BEYOND ITS NATURAL PROGRESSION BY (insert "service connected condition")?

☐ YES *(provide rationale in section 6B.)*

☐ NO *(provide rationale in section 6B.)*

IF "NO" TO QUESTION 6A, ANSWER THE FOLLOWING:

I. PROVIDE RATIONALE AS TO WHY A BASELINE CANNOT BE ESTABLISHED *(e.g. medical evidence is not sufficient to support a determination of a baseline level of severity):*

II. REGARDLESS OF AN ESTABLISHED BASELINE, WAS THE VETERAN'S *(claimed condition/diagnosis)* AT LEAST AS LIKELY AS NOT AGGRAVATED BEYOND ITS NATURAL PROGRESSION BY *(insert "service connected condition")*?

☐ YES *(provide rationale in section 6B.)*

☐ NO *(provide rationale in section 6B.)*

6B. PROVIDE RATIONALE:

SECTION VII - OPINION REGARDING CONFLICTING MEDICAL EVIDENCE

7. I HAVE REVIEWED THE CONFLICTING MEDICAL EVIDENCE AND AM PROVIDING THE FOLLOWING OPINION:

SECTION VIII - PHYSICIAN'S CERTIFICATION AND SIGNATURE

CERTIFICATION - To the best of my knowledge, the information contained herein is accurate, complete and current.

8A. PHYSICIAN'S SIGNATURE	8B. PHYSICIAN'S PRINTED NAME	8C. DATE SIGNED
Jack C. Carney, Ph.D. b2133b2a-eabf-4cc7-b42b-677e88b8780d	CARNEY JACK C. PH.D Psychology	8/23/2021 (UTC)

8D. PHYSICIAN'S PHONE/FAX NUMBERS	8E. NATIONAL PROVIDER IDENTIFIER (NPI) NUMBER	8F. PHYSICIAN'S ADDRESS
2516354541 9497053602	NPI#:1386617512 Lic#:1374 AL	2054 DAUPHIN ST MOBILE AL 36606

EXHIBIT 6

DEPARTMENT OF VETERANS AFFAIRS

JAMES S BRADFORD
[redacted]

In reply, refer to:
397/SJ
File Number: [redacted]0455
JAMES BRADFORD

IMPORTANT -- reply needed within 30 days

Dear Mr. BRADFORD:

We are working on your claim.

What Do We Still Need From You?

We need additional evidence from you. ***Please put your VA file number on the first page of every document you send us***.

- On 08/23/2021 at your PTSD exam you provided details regarding the stressful event(s) that caused your post traumatic stress disorder. The information we received does not meet the minimum level of detail needed for VA to seek assistance from the U.S. Army and Joint Services Records Research Center (JSRRC). JSRRC assists VA in verifying Veteran's claimed stressful incidents when VA cannot verify the stressful incident based on records from the service department or when VA cannot obtain the necessary records from the service department.

  It is important that you provide us with more specific details concerning your stressful event(s). Failure to respond or failure to provide a complete response to this request may result in a denial of your claim. Specifically, we still need:

  - VA Form 21-0781

- We need specific details of the personal trauma incident(s) that resulted in post-traumatic stress disorder (PTSD). It is important that you read the following information and respond to our request within 30 days from the date of this letter. If you do not respond, VA may deny your claim.

  - Complete and return the enclosed questionnaire. We realize that this may be a difficult subject for you to discuss, but the information will be safeguarded and used only in

support of your claim. If you are not able to provide the exact date of the incident, please indicate the location and approximate time (a 2-month specific date range) of the stressful event(s) in question.

- Give us reports of private physicians, if any, who have treated you for this condition since discharge. The reports should include clinical findings and diagnosis. If you have been treated for this condition at a VA medical facility, furnish the date(s) and place(s). We will obtain the report(s).
- If you have been treated in the Vet Center, tell us the dates of treatment and the address of the Vet Center. We will request the records.
- Identify any possible sources of information and evidence such as police reports or medical treatment records for assault or rape.
- Send us supporting statements from any individuals with whom you may have discussed the incident. Furnish copies of correspondence you may have sent to close friends or relatives in which you related information about the incident.
- If you did not discuss the incident with anyone, send us supporting statements from service persons, friends, family or clergy who may have observed any changes in your behavior as it may have related to the incident.

How Should You Submit What We Need?

Please note that the quickest, easiest, and most secure way to submit any documents to us is via the VA.gov website. Just visit www.VA.gov to register. Please also refer to the 'What is VA.gov?' section of this letter for more information.

You can also mail what we need to the appropriate address listed on the attached *Where to Send Your Correspondence* chart.

How Soon Should You Send What We Need?

We strongly encourage you to send any information or evidence as soon as you can. **If we do not hear from you, we may make a decision on your claim after 30 days.**

What is VA.gov?

VA.gov provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the VA.gov website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

File Number: [redacted]0455
BRADFORD, JAMES S

Enrolling in VA.gov is easy. Just visit www.va.gov for more information. If you submit a claim in the future, consider filing through VA.gov. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

Where to Send Written Records

Please mail all written responses to the **Compensation Benefits** address listed on the attached Where to Send Your Correspondence chart.

If You Have Questions or Need Assistance

If you have any questions or need assistance with this claim, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.
Use the Internet	Send electronic inquiries through the Internet at https://iris.custhelp.com/.
Write	VA now uses a centralized mail system. For all written communications, put your full name and VA file number on the letter. Please mail all written correspondence to the appropriate address listed on the attached *Where to Send Your Correspondence*.

In all cases, be sure to refer to VA file number [redacted]0455.

If you are looking for general information about benefits and eligibility, you should visit our web site at https://www.va.gov or search the Frequently Asked Questions (FAQs) at https://iris.custhelp.com.

We sent a copy of this letter to COLIN E KEMMERLY, who you have appointed as your representative(s). If you have questions or need assistance, you can also contact your representative.

We look forward to resolving your claim in a fair and timely manner.

Respectfully,

File Number: [redacted]0455
BRADFORD, JAMES S

Enclosure(s): Where to Send Correspondence
VA Form 21-0781a
Appeals Management Center Coversheet

cc: COLIN E KEMMERLY
POA Attorney
COLIN E KEMMERLY
GARDBERG, CLAUSEN & KEMMERLY, P.C.
1015 MONTLIMAR DRIVE SUITE B-4
MOBILE, AL 36609

Where to Send Your Correspondence
Documents may be submitted by mail, in person at a VA regional office or electronically. However, VA recommends submitting correspondence electronically as this is the fastest method of receipt. VA provides several tools to assist in electronic submission. To learn more about how to submit documents and claims electronically, visit www.va.gov/disability/upload-supporting-evidence. You can also go directly to access.va.gov to digitally upload any correspondence using Direct Upload. By visiting www.va.gov you can also check your claim status and learn about other VA benefits. If you need assistance, you can find a local, accredited representative at https://www.benefits.va.gov/vso/

If you prefer to mail your correspondence, please use the related mailing address below:

Compensation Benefits Department of Veterans Affairs Compensation Intake Center P.O. Box 4444 Janesville, WI 53547	**Pension & Survivors Benefits** Department of Veterans Affairs Pension Intake Center P.O. Box 5365 Janesville, WI 53547
Board of Veterans' Appeals Department of Veterans Affairs Board of Veterans' Appeals P.O. Box 27063 Washington, DC 20038 Toll Free Fax: (844) 678-8979	**Fiduciary** Department of Veterans Affairs Fiduciary Intake Center P.O. Box 95211 Lakeland, FL 33804

These addresses serve **all United States and foreign locations**.

You can also send a text message to 838255 to receive confidential support 24 hours a day, 7 days a week, 365 days a year. For more information, visit www.veteranscrisisline.net

OMB Approved No. 2900-0659
Respondent Burden: 1 hour 10 minutes
Expiration Date: 07/31/2020

Department of Veterans Affairs

VA DATE STAMP
DO NOT WRITE IN THIS SPACE

STATEMENT IN SUPPORT OF CLAIM FOR SERVICE CONNECTION FOR POST-TRAUMATIC STRESS DISORDER (PTSD) SECONDARY TO PERSONAL ASSAULT

IMPORTANT: If you or someone you know is in crisis, call the Veterans Crisis Line at 1-800-273-8255 and press 1, or visit https://www.veteranscrisisline.net/ to chat online, or send a text message to **838255** to receive confidential support 24 hours a day, 7 days a week, 365 days a year. Support for deaf and hard of hearing individuals is available.

INSTRUCTIONS: List the stressful incident or incidents that occurred in service that you feel contributed to your current condition. For each incident, provide a description of what happened, the date, the geographic location, your unit assignment and dates of assignment. Please complete the form in detail and be as specific as possible so that research of military records and other sources you identify can be thoroughly conducted. If more space is needed, attach a separate sheet, indicating the item number to which the answers apply.

SECTION I: VETERAN'S IDENTIFICATION INFORMATION

NOTE: You can *either* complete the form online or by hand. Please print the information requested in ink, neatly and legibly to help process the form.

1. VETERAN/BENEFICARY NAME *(First, Middle Initial, Last)*

2. SOCIAL SECURITY NUMBER

3. VA FILE NUMBER *(If applicable)*

4. DATE OF BIRTH *(MM/DD/YYYY)*
Month Day Year

5. VETERAN'S SERVICE NUMBER *(If applicable)*

6. PREFERRED E-MAIL ADDRESS *(Optional)*

7A. PRIMARY TELEPHONE NUMBER *(Include Area Code)*

7B. SECONDARY TELEPHONE NUMBER *(Include Area Code)*

SECTION II: STRESSFUL INCIDENT(S)

8A. DATE ***FIRST*** INCIDENT OCCURRED *(MM/DD/YYYY)*
Month Day Year

8B. DATES OF UNIT ASSIGNMENT *(MM/DD/YYYY)*
FROM: Month Day Year
TO: Month Day Year

8C. LOCATION OF INCIDENT *(City, State, Country, Province, landmark or military installation)*

8D. UNIT ASSIGNMENT DURING INCIDENT *(Such as, DIVISION, WING, BATTALION, CAVALRY, SHIP)*

8E. DESCRIPTION OF THE INCIDENT

OTHER SOURCES OF INFORMATION: Identify any other sources (military or non-military) that may provide information concerning the incident. If you reported the incident to military or civilian authorities or sought help from a rape crisis center, counseling facility, or health clinic, etc., please provide the names and addresses and we will assist you in getting the information. If the source provided treatment and you would like us to obtain the treatment records, complete VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA), for each provider. If you confided in roommates, family members, chaplains, clergy, or fellow service persons, you may want to ask them for a statement concerning their knowledge of the incident. These statements will help us in deciding your claim. Other sources of information also include personal diaries or journals.

VETERAN'S SOCIAL SECURITY NO. ___ – __ – ____

SECTION II: STRESSFUL INCIDENT(S) *(Continued)*

9A. NAME	9B. ADDRESS
9C. NAME	9D. ADDRESS
9E. NAME	9F. ADDRESS

10A. DATE ***SECOND*** INCIDENT OCCURRED *(MM,DD,YYYY)*	10B. DATES OF UNIT ASSIGNMENT *(MM/DD/YYYY)*	
Month Day Year	**FROM:** Month Day Year	**TO:** Month Day Year
__ – __ – ____	__ – __ – ____	__ – __ – ____

10C. LOCATION OF INCIDENT *(City, State, Country, Province, landmark or military installation)*

10D. UNIT ASSIGNMENT DURING INCIDENT *(Such as, DIVISION, WING, BATTALION, CAVALRY, SHIP)*

10E. DESCRIPTION OF THE INCIDENT

OTHER SOURCES OF INFORMATION: Identify any other sources (military or non-military) that may provide information concerning the incident. If you reported the incident to military or civilian authorities or sought help from a rape crisis center, counseling facility, or health clinic, etc., please provide the names and addresses and we will assist you in getting the information. If the source provided treatment and you would like us to obtain the treatment records, complete VA Form 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA), for each provider. If you confided in roommates, family members, chaplains, clergy, or fellow service persons, you may want to ask them for a statement concerning their knowledge of the incident. These statements will help us in deciding your claim. Other sources of information also include personal diaries or journals.

11A. NAME	11B. ADDRESS
11C. NAME	11D. ADDRESS
11E. NAME	11 F. ADDRESS

VETERAN'S SOCIAL SECURITY NO. ___ - __ - ____

SECTION II: STRESSFUL INCIDENT(S) *(Continued)*

12. Please provide in the space below any other information that you feel is important for us to know that may help your claim. The following are some examples, of behavioral changes that you may have experienced following the incident(s):

- visits to a medical or counseling clinic or dispensary without a specific diagnosis or specific ailment
- sudden requests for a change in occupational series or duty assignment
- increased use of leave without an apparent reason
- changes in performance and performance evaluations
- episodes of depression, panic attacks, or anxiety without an identifiable cause
- increased or decreased use of prescription medications
- increased use of over-the-counter medications
- substance abuse such as alcohol or drugs
- increased disregard for military or civilian authority
- obsessive behavior such as overeating or undereating
- pregnancy tests around the time of the incident
- tests for HIV or sexually transmitted diseases
- unexplained economic or social behavior changes
- breakup of a primary relationship

SECTION III: VETERAN SIGNATURE

I HEREBY CERTIFY THAT the foregoing statement(s) are true and correct to the best of my knowledge and belief.

13. SIGNATURE	14. DATE SIGNED *(MM/DD/YYYY)*

PENALTY - The law provides severe penalties which include fine or imprisonment or both, for the willful submission of any statement or evidence of a material fact, knowing it is false, or fraudulent acceptance of any payment to which you are not entitled.

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in VA system of records, 58VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is voluntary. However, the requested information is necessary to obtain supporting evidence of stressful incidents in service. If the information is not furnished completely or accurately, VA will not be able to thoroughly research your military records and other sources for supporting evidence. The responses you submit are considered confidential (38 U.S.C. 5701).

RESPONDENT BURDEN: We need this information in order to assist you in supporting your claim for post-traumatic stress disorder (38 U.S. C. 5107 (a)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 1 hour and 10 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at **www.reginfo.gov/public/do/PRAMain**. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

NOTICE

Appeals Management Center

Please place this cover sheet on top of any information or documents you send in response to this letter. Failure to do so may delay review of the material you submit.

Section completed by VA personnel:

VA File Number ***(or Social Security Number)***

Last Name

First Name

Access to these records is limited to: AUTHORIZED PERSONS ONLY.

Information may not be disclosed from this file unless permitted by all applicable legal authorities, which may include the Privacy Act; 38 U.S.C. §§ 5701, 5705, 7332; the Health Insurance Portability and Accountability Act; and regulations implementing those provisions, at 38 C.F.R. §§ 1.460 – 1.599 and 45 C.F.R. Parts 160 and 164.

Anyone who discloses information in violation of the above provisions may be subject to civil and criminal penalties.

Appeals Management Center/397