

**CONNECTICUT  
VETERANS  
LEGAL  
CENTER**



# **WHAT MAKES A GOOD MENTAL HEALTH CLAIM?**

Presented by Eva Puorro, *Staff Attorney, VA Benefits*

# AGENDA

- What do you REALLY need to succeed?
- Step One: Breaking down your first client meeting.
- Step Two: Corroborating your claim.
- Step Three: Reviewing the record.
- Step Four: Assembling your evidence.
- Step Five: The end result.

Veteran and former CVLC Client and CVLC Board Member John Rios.  
Photo by Desirea Stott-Rodgers Photography.



# WHO IS CONNECTICUT VETERANS LEGAL CENTER AND WHAT DO WE DO?

Connecticut Veterans Legal Center provides legal representation at no-cost to Veterans. As a recovery-focused organization, CVLC primarily, but not exclusively, serves clients through a Medical-Legal Partnership model in which we partner with Veterans Administration Hospitals and other connected providers to provide holistic support for Veterans alongside their clinicians to secure stable housing and access to healthcare and income benefits.

CVLC Client Theresa. Photo by David Apuzzo.



# OUR MISSION

Connecticut Veterans Legal Center's mission is to empower, support, and improve the lives of Connecticut Veterans by providing free legal assistance to help them overcome legal barriers to housing, healthcare, income, and recovery.

# OUR VISION

Our vision is for all Connecticut Veterans to thrive and contribute to their communities with a sense of self-worth and dignity.

CVLC Clients Joe and Kathy. Photo by David Apuzzo.



# WHAT YOU NEED TO SUCCEED

Most mental health conditions operate on the basic legal framework for service connection.

**Bucket one:** Current Diagnosis

**Bucket two:** In-service diagnosis *OR* symptoms *OR* stressor

**Bucket three:** Nexus (“as least likely as not related to service” or displaying a continuation of symptomology from service)\*

**Three full buckets** = Profit!

*\***Most** clients on day one don't have all three buckets full to the brim, but might be half of the way there.*

CVLC Supervising Attorney Darren Pruslow. Photo by Joel Callaway.



# **HOW DO I TELL IF ITS A GOOD CASE?**

**OUR NEW CLIENT, EMILY, IS GOING TO HELP US FIGURE OUT HOW TO DECIDE IF WE HAVE A GOOD MENTAL HEALTH CLAIM, OR IF WE HAVE TO DELIVER SOME HARD NEWS.**

# STEP ONE: CLIENT MEETING

**Emily** is an Army Veteran who served from 2002 – 2004. She has a General – Under Honorable Conditions Discharge. She gets VA Healthcare and is connected with a VA social worker.

She wants to apply for service connection for her mental health condition, which she states is Post-Traumatic Stress Disorder.

**Where do you begin in your client interview to determine if she has a good case?**



# A GOOD STARTING POINT IS DETERMINING HOW FULL BUCKETS #1 AND #2 ARE.

## BUCKET ONE: CURRENT DIAGNOSIS

**GOAL: Is their diagnosis current?**

- “Are you currently in mental health treatment?”
- “Where do you get treatment?”
- “Do you get treatment outside VA?”
- “How long have you been in treatment?”
- “What’s your good day look like? What’s your bad day look like?”
- “Are you OK with me talking to your doctor?”

## BUCKET TWO: IN-SERVICE “SOMETHING”

**GOAL: Did MH problems start in the service?**

- “How was boot camp?”
- “What was your MOS?”
- “Did you deploy? Where?”
- “Did you see combat?” or “Did you hear live fire?”
- “Did you have a hard time in the service?”
- “Did you get any NJPs?”
- “What were the circumstances surrounding your discharge status?”



# STEP TWO: CORROBORATING THE CLAIM

**Are you currently in mental health treatment?** “Yes. I see Dr. Lopez at VA once a month for medication, and I see Maria for therapy once a week. I’ve been going there for about six months. VA diagnosed me with PTSD. This is pretty new to me.”

**What are your good days like versus your bad days?** “I’ve been sober for 24 days. My good days I can do alright, but those don’t happen very often. My bad days are really bad. I don’t leave the house. I got fired from my last job because I freaked out. I have a service dog that helps me navigate the grocery store and crowds.”

**Can I talk to your clinicians?** “Sure. I’ve started telling them more about the Army. They can help.”



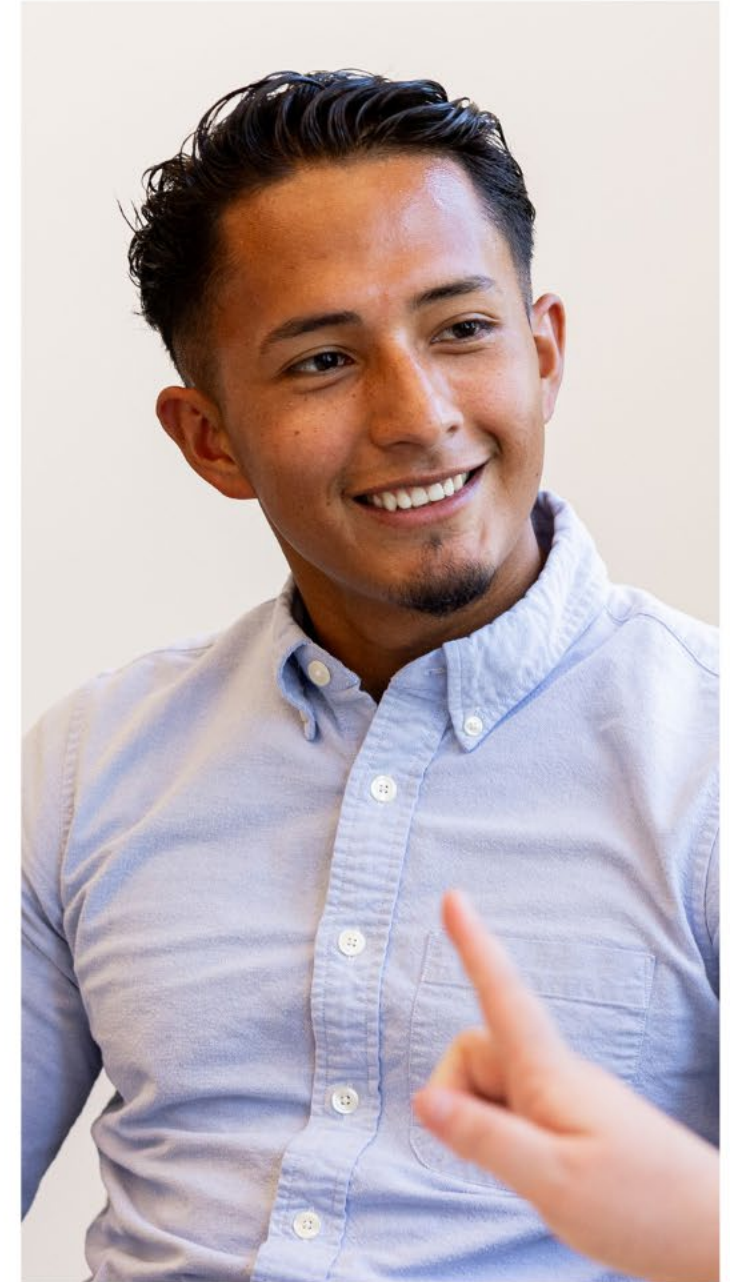
CVLC Client and WWII Veteran John “Stew” Lahey. Photo by David Apuzzo.

**Did you enjoy your time in the Army?** “It was OK at first. Boot camp was a lot of fun. I got top marks in training school and wound up in Afghanistan. Some stuff happened on deployment. I don’t want to talk about it. But I started drinking after that, and I got sent home and kicked.”

**Did you get any NJPs or write-ups?** “I got cited for drinking. I never drank before the Army. I was late a few times. I asked to transfer and go home, but they wouldn’t let me go so I went AWOL for a day or two. I don’t remember if any of that is in my record.”

**What happened with your discharge?** “I pissed off the wrong guy. He did some stuff, tried reporting it. The next thing I know, I get hauled out of my bunk to command because I stayed out late drinking. They gave me a breathalyzer on the spot and it hit. I was told I could take the General or I could get a Bad Conduct. I just wanted to go home, so I took the General.”

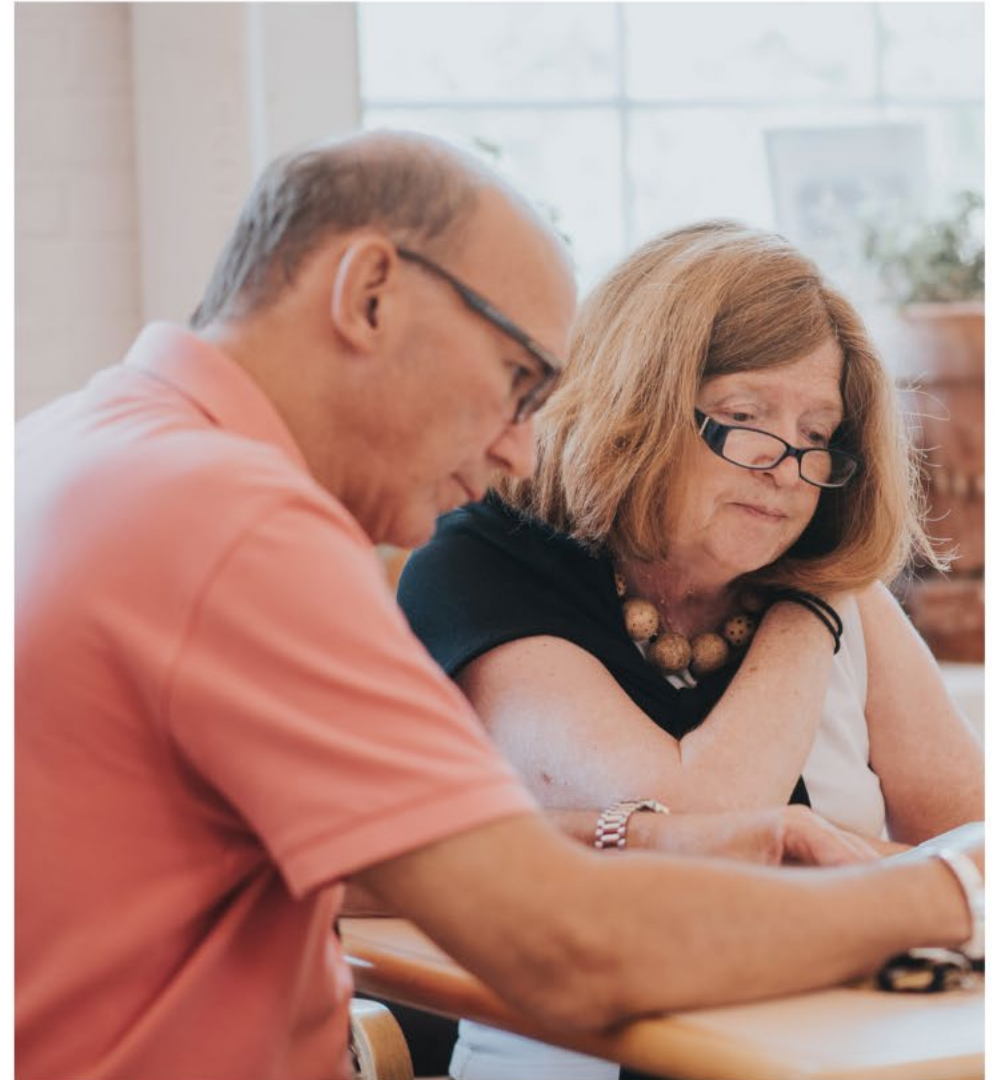
CVLC Paralegal Cesar Rivera. Photo by David Apuzzo.



# YOU KNOW A FEW THINGS ABOUT EMILY.

- She received a GUH due to misconduct.
- She asked for a duty transfer, but it was denied.
- She didn't have a drinking problem before the Army – started drinking on deployment.
- She went AWOL a few times.
- She had a good time in boot camp and earned top marks in training school.
- She (likely) has a diagnosis of PTSD and is in treatment.
- She is not working.

CVLC Senior Counsel Christy Fisher meeting with VA Nurse Dr. David Rosenthal. Photo by Desirea Stott-Rodgers.



# EMILY NEEDS SOME MORE BUCKETS FILLED.

- EMILY NEEDS A DIAGNOSIS OF PTSD.
- EMILY NEEDS A STRESSOR THAT COMPORTS WITH THE DSM-V DEFINITION.
- EMILY NEEDS A NEXUS MEDICAL OPINION.

CVLC Staff Attorney Janice Wolf with CVLC Client and WWII Veteran John "Stew" Lahey. Photo by David Apuzzo.



# STEP THREE: REVIEWING THE RECORD

- **Medical Records**

- Current medical records will show current diagnosis and also information pertaining to a stressor.
- What does your client talk to their therapist about?
- Look for notes – look for why they enlisted clinical help – dig into the details.

- **Military Records**

- Dates are hard to remember, especially with trauma.
- Focus your attention on the period of time where your client says something happened.
- Look for NJPs, misconduct, AWOLs, sick calls, duty station transfers, deployment locations.



CVLC Client Hector. Photo by Desirea Stott-Rodgers.

## MEDICAL RECORD REVIEW

- Emily has diagnoses of PTSD, Major Depressive Disorder, and Alcohol Use Disorder (in remission).
- Six months ago, Emily reported being sexually assaulted by her commanding officer while stationed in Afghanistan to her mental health clinician, Maria.
- Three years ago, Emily denied experiencing MST during a routine primary care visit.
- Emily's parents were divorced at an early age and she visited a therapist twice to deal with it at the age of seven.

## MILITARY RECORD REVIEW

- Emily's military record is perfect prior to deployment. She earned top marks in all performance evaluations.
- An STR shows she reported to sick call in Kuwait complaining of a leg injury.
- An STR shows she asked for a pregnancy test and STI screening while in Kuwait.
- There are multiple NJPs for: AWOL (2 days); showing up late to duty; poor hygiene; poor uniform care.
- She has a citation for being under the influence near the end of her service.
- There is no mention of a duty station transfer in her file.

## POSITIVE EVIDENCE

- Emily has diagnoses of PTSD, Major Depressive Disorder, and Alcohol Use Disorder (in remission).
- Six months ago, Emily reported being sexually assaulted by her commanding officer while stationed in Kuwait to her mental health clinician, Maria.
- Emily's military record is perfect prior to deployment. She earned top marks in all performance evaluations.
- An STR shows she asked for a pregnancy test and STI screening while in Kuwait.
- There are multiple NJPs for: AWOL (2 days); showing up late to duty; poor hygiene; poor uniform care.
- She has a citation for being under the influence near the end of her service.

## "NEGATIVE" OR IRRELEVANT (?) EVIDENCE

- An STR shows she reported to sick call in Kuwait complaining of a leg injury.
- There is no mention of a duty station transfer in her file.
- Three years ago, Emily denied experiencing MST during a routine primary care visit.
- Emily's parents were divorced at an early age and she visited a therapist twice to deal with it at the age of seven.

# EMILY IS ON HER WAY.

- EMILY NEEDS A DIAGNOSIS OF PTSD.
- EMILY NEEDS A STRESSOR THAT COMPORTS WITH THE DSM-V DEFINITION.
- EMILY NEEDS A NEXUS MEDICAL OPINION.





GENERALLY, IF I HAVE BUCKETS #1 AND #2 FULL - I AM READY TO BEGINNING BUILDING MY BRIEFING TO ARGUE TO VA. BUT - THE TRICK IS, HOW DO WE MAKE SURE THE VA EXAMINER FILLS BUCKET #3?

**TIME TO ASSEMBLE WHAT YOU'VE GOT INTO A GOOD CLAIM.**

# STEP FOUR: ASSEMBLE THE EVIDENCE

**The primary goal is to make VA's job as easy as possible.**

YOU know what makes a good mental health claim; odds are, they do not.

Assembling all the hard work you've done into a solid package will make the VA see what you do – that Emily has a great mental health claim, and they should grant it.



## DO

- Have your client provide a solid affidavit.
- Pull specific exhibits from the military record to highlight markers of mental health symptoms.
- Pull specific exhibits from the medical record to highlight current symptoms and current diagnosis.
- Write a succinct brief to summarize your case – and know your audience!
- Make it easy for VA to connect the dots.

## DO NOT

- Paperbomb the VA.
- Expect the VA to find the evidence within the record themselves.
- Expect the VA Examiner to know your client's diagnosis.
- Expect the VA Examiner to know what makes a good marker for mental health or MST.
- Write to the DRO like you are writing to the BVA or CAVC.
- Make it hard for VA to do their job.

# STEP FIVE: PROFIT!

## In summation, what makes a good mental health claim?

- Filling your buckets as much as possible before filing.
- Knowing your diagnoses.
- Knowing your client.
- Knowing your evidence.
- Knowing how to spot green (and red!) flags within the record.
- Knowing that there is no perfect claim – but you can do your best to make it most of the way there.

**The more buckets you have full, the better off you will be when you do battle with the lower level VA.**



# WHAT HAPPENED TO EMILY?

Thanks to your zealous advocacy, **Emily is now 100% service-connected** for PTSD due to MST. She is fully integrated into VA Healthcare and her housing is stabilized. She and her service dog, Rocco, can live peacefully without worrying about having to pay their bills.

She is further is grateful that you attended this seminar so her attorney could realize she had a good case from the start.



Veteran and former CVLC Client April Pearson. Photo by Desirea Stott-Rodgers Photography.

# QUESTIONS?

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## **VISIT A CVLC LOCATION**

### **CRRC in West Haven**

114 Boston Post Road  
Ground Floor

West Haven, Connecticut 06516

### **ECCC in Orange**

200 Edison Road  
Room 1123

Orange, Connecticut 06477

### **VA Campus in Newington**

555 Williard Avenue  
Newington, Connecticut 06111

### **Captain Matthew E. Auger USNR**

**Office in New London**  
75 State Street, 4th Floor  
New London, Connecticut