UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the ten objects (See list [1]), to be exhibited in the Korean galleries of the Asian Art Museum in San Francisco, imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Asian Art Museum of San Francisco from on or about May 2, 1997, through March 1, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: March 27, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–8220 Filed 3–31–97; 8:45 am]

BILLING CODE 8230–01–M

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Rodin and Michelangelo'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Philadelphia Museum of Art from on or about March 30, 1997, through June 22, 1997, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: March 27, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–8219 Filed 3–31–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC. 20547–0001.

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel.

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 1–97

Question Presented

Are distributions from an individual retirement account (IRA) countable as income for purposes of the improved pension program, the section 306 pension program, the old law pension program, and parents'' dependency and indemnity compensation (DIC)?

Held

Distributions from an individual retirement account are fully countable as income for purposes of the improved pension program. Ten percent of such distributions may be excluded from income for purposes of benefits under the section 306 pension program, benefits under the old law pension program, and parents'' dependency and indemnity compensation payable under 38 U.S.C. 1315.

Effective Date: January 8, 1997.

VAOPGCPREC 2–97

Questions Presented

a. May service connection be established for a disability resulting from a veteran's own alcohol or drug abuse, based on the aggravation of such disability by a service-connected disability? b. Does a Board of Veterans'' Appeals decision based on an erroneous interpretation of law bind the Veterans Benefits Administration?

Held

a. Section 8052 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101–508, section 8052, 104 Stat. 1388, 1388–351, prohibits, effective for claims filed after October 31, 1990, the payment of compensation for a disability that is a result of a veteran's own alcohol or drug abuse. The payment of compensation is prohibited whether the claim is based on direct service connection or, under 38 CFR 3.310(a), on secondary service connection of a disability proximately due to or a result of a service-connected condition. Further, compensation is prohibited regardless of whether compensation is claimed on the basis that a service-connected disease or injury caused the disability or on the basis that a service-connnected disease or injury aggravated the disability.

b. A Board of Veterans'' Appeals decision based on an erroneous interpretation of law remains final and binding on all VA components, including the Veterans Benefits Administration, in the absence of reconsideration by the Board.

Effective Date: January 16, 1997.

VAOPGCPREC 3–97

Question Presented

Does the nature of damages awarded in a judgment, settlement, or compromise affect the amount of benefits to be offset under 38 U.S.C. 1318(d)?

Held

Section 1318(d) of title 38, United States Code, requires offset against survivors' benefits payable under section 1318 of amounts received by the beneficiary pursuant to an award, settlement, or compromise based on a claim for damages resulting from the death of a veteran, i.e., the types of damages typically recoverable under state wrongful death statutes, but does not require offset of amounts received pursuant to a survival action as compensation for injuries suffered by the veteran prior to his or her death.

Effective Date: January 16, 1997.

VAOPGCPREC 4–97

Questions Presented

a. May the action of a Department of Veterans Affairs (VA) regional office withholding a portion of a veteran's compensation and paying it to the veteran's former spouse pursuant to a state-court support order be considered an apportionment under 38 U.S.C. 5307?

b. Does the Board of Veterans'' Appeals (Board) have jurisdiction to review a VA regional office decision to withhold a portion of a veteran's compensation benefits pursuant to a state-court support order and 5 C.F.R. 581.103 and 581.402?

Held

a. The action of a VA regional office withholding a portion of a veteran's compensation and paying it to the veteran's former spouse, which was based on a state-court support order which the regional office misconstrued as requiring garnishment of the veteran's benefits, may not be considered an apportionment action under 38 U.S.C. 5307.

b. The Board of Veterans'' Appeals does not have jurisdiction to review VA regional office decisions made for purposes of responding to state-issued legal process for garnishment pursuant to the procedures of 42 U.S.C. 659(a) and implementing regulations and generally lacks authority over challenges to continuing garnishments, insofar as such challenges involve issues as to the validity or interpretation of state-issued legal process. In the event that a claim relating to VA garnishment does not challenge the validity or interpretation of state-issued legal process, but challenges VA action which is not subject to resolution in state garnishment proceedings, the regional office of jurisdiction and the Board may entertain the claim.

Effective Date: January 22, 1997.

VAOPGCPREC 5–97

Question Presented

Whether the term ''service trauma'' in 38 C.F.R. 17.123(c), the regulation which authorizes VA to provide dental care to correct service-connected noncompensable disabilities resulting from service trauma, includes tooth extraction performed during the veteran's military service?

Held

For the purposes of determining whether a veteran has Class IIa eligibility for dental care under 17 C.F.R. 17.123(c), the term ''service trauma'' does not include the intended effects of treatment provided during the veteran's military service.

Effective Date: January 22, 1997.

VAOPGCPREC 6–97

Question Presented

Whether VA's continued payment of the full amount of benefits to a veteran who was incarcerated following conviction for a felony, while awaiting official information of his imprisonment in accordance with Veterans Benefits Administration Adjudication Procedure Manual M21–1, constitutes an erroneous award based on administrative error or error in judgment pursuant to 38 U.S.C. 5112(b)(10), so that the effective date of the reduction of the award is the date of last payment rather than the 61st day of incarceration as provided by 38 U.S.C. 5313(a).

Held

VA's continued payment of the full amount of benefits to a veteran who was incarcerated following conviction for a felony, while awaiting official information of his imprisonment in accordance with Veterans Benefits Administration Adjudication Procedure Manual M21–1, does not constitute an erroneous award based on administrative error or error in judgment pursuant to 38 U.S.C. 5112(b)(10), so that the effective date of the reduction of the award is the 61st day of incarceration as provided by 38 U.S.C. 5313(a).

Effective Date: January 28, 1997.

VAOPGCPREC 7–97

Question Presented

Do the provisions of 38 U.S.C. 1151 authorizing monetary benefits for disability incurred as the ''result of hospitalization'' apply to disabilities incurred during hospitalization but which are unrelated to a program of medical treatment?

Held

Compensation under 38 U.S.C. 1151 for injuries suffered ''as the result of * * * hospitalization'' is not limited to injuries resulting from the provision of hospital care and treatment, but may encompass injuries resulting from risks created by any circumstances or incidents of hospitalization. In determining whether a specific injury is a result of hospitalization, guidance may be drawn in appropriate cases from judicial decisions under workers' compensation laws and similar laws requiring a finding of causation without regard to fault. An injury caused by a fall may be considered a result of hospitalizaion where the conditions or incidents of hospitalization caused or contributed to the fall or the severity of the injury. A fall due solely to the patient's inadvertence, want of care, or preexisting disability generally does not result from hospitalization. An injury incurred due to recreational activity may be considered a result of hospitalization where VA requires or encourages participation in the activity, administers or controls the activity, or facilitates the activity in furtherance of treatment objectives. In individual cases, the question whether an injury resulted from hospitalization is essentially an issue of fact to be determined by the factfinder upon consideration of all pertinent circumstances.

Effective Date: January 29, 1997.

VAOPGCPREC 8–97

Question Presented

May compensation be paid, pursuant to 38 CFR 3.310, for a disability which is proximately due to or the result of a disability for which compensation is payable under 38 U.S.C. 1151?

Held

Disability compensation may be paid, pursuant to 38 U.S.C. 1151 and 38 CFR 3.310, for disability which is proximately due to or the result of a disability for which compensation is payable under section 1151.

Effective Date: February 11, 1997.

VAOPGCPREC 9–97

Questions Presented

1. Can the issuance of a supplemental statement of the case in response to evidence received within the one-year period following the mailing date of notification of the determination being appealed extend the time allowed to perfect an appeal beyond the expiration of that one-year period?

2. If a supplemental statement of the case is not or cannot be issued before the one-year period expires, does the appeal expire and must such evidence be considered an attempt to reopen a finally adjudicated claim?

Held

1. If a claimant has not yet perfected an appeal and VA issues a supplemental statement of the case in response to evidence received within the one-year period following the mailing date of notification of the determination being appealed, 38 U.S.C. 7105(d)(3) and 38 CFR 20.302(c) require VA to afford the claimant at least 60 days from the mailing date of the supplemental statement of the case to respond and perfect an appeal, even if the 60-day period would extend beyond the expiration of the one-year period. To the extent that 38 CFR 20.304 purports to provide otherwise, it is invalid and requires amendment.

2. If VA receives additional material evidence within the time permitted to perfect an appeal, 38 U.S.C. 7105(d)(3) requires VA to issue a supplemental statement of the case even if the one-year period following the mailing date of notification of the determination being appealed will expire before VA can issue the supplemental statement of the case. Furthermore, 38 CFR 3.156(b) requires that such evidence be considered in connection with the pending claim.

Effective Date: February 11, 1997.

VAOPGCPREC 10–97

Question Presented

Does a $1,100 cash distribution from an Alaska Native Corporation and a $16,338 dividend distribution by the corporation to a settlement trust under the Alaska Native Claims Settlement Act, both of which were made in 1993, constitute income to a veteran for improved-pension purposes?

Held

Pursuant to VAOPGCPREC 12–89 and VAOPGCPREC 4–93, if the nontaxable portion of a cash distribution received by a veteran from an Alaska Native Corporation represents a distribution from the Alaska Native Fund, that portion of the distribution and an interest in a settlement trust received by the veteran from the Native Corporation may be excluded from computation of income for improved-pension purposes under 38 U.S.C. 1503(a)(6) as compensation for relinquishment of an interest in property. If the taxable portion of the cash distribution received by the veteran was derived from revenues earned by a Native Corporation, that distribution constitutes income for improved-pension purposes. Section 506 of Pub. L. No. 103–446, 108 Stat. 4645, 4664 (1994), which excludes from income computation for improved-pension purposes cash distributions not exceeding $2,000 per annum received by an individual from an Alaska Native Corporation, does not apply to computation of income for improved-pension purposes for periods prior to November 2, 1994, the date of its enactment.

Effective Date: February 21, 1997.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 97–8137 Filed 3–31–97; 8:45 am]

BILLING CODE 8320–01–P

Enhanced-Use Lease of Property at the Department of Veterans Affairs Medical Center in Atlanta, Georgia

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Department of Veterans Affairs Medical Center in Atlanta, Georgia, for an Enhanced-Use lease development. The Department intends to enter into a long-term lease of real property at the Medical Center with the Development authority of DeKalb County for the purpose of collocating administrative office space for its Veteran Benefits Administration Regional Office onto such property and for other ''in-kind'' consideration.

FOR FURTHER INFORMATION CONTACT: Brian A. McDaniel, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. Sec 8161 *et seq.*, specifically provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: March 21, 1997.

Jesse Brown,

Secretary.

Notice of Designation and Intent to Execute an Enhanced-Use Lease With the Development Authority of Dekalb County (Georgia) (Enhanced-Use Lease Report) for the Collocation of a VBA Regional Office at the VA Medical Center, Atlanta, Georgia

Notice

Pursuant to the provisions of 38 U.S.C. 8161, *et seq.*, ''Enhanced Use Leases of Real Property,'' this serves as notice that the Secretary of the Department of Veterans Affairs (''the Department'') intends to designate approximately six (6) acres (''the Parcel'') and other property under the jurisdiction and control of the department on the campus of the Atlanta VA Medical Center for development under the terms of an Enhanced-Use lease. The Parcel is located in the northwest corner of Clairmont Road and Southern Lane, adjacent to the VA Medical Center, Atlanta, DeKalb County, Georgia.

Further, it is the Department's intent that after conclusion of successful negotiations with the Development Authority of DeKalb County (''Authority''), to enter into an Enhanced-Use lease of the Parcel with the Authority. Such lease will include a requirement for collocation of the Department's Veterans Benefits Administration Regional Office in Atlanta as well as potentially other VA and non-VA uses on the Parcel. The Authority, acting pursuant to its statutory responsibilities, may provide financing for the development and select a developer with the approval of the Department. The developer will construct and operate the development which will include both VA and non-VA uses.

This Notice and Report will be supplemented by a subsequent Report to be made not less than 30 days prior to the closing of a development agreement between the Department, the Enhanced-Use lessee (the Authority) and the developer. The Report will provide updated information with respect to the matters contained herein.

Background and Rationale

Under the provisions of 38 U.S.C. 8161, *et seq.*, the Secretary is authorized