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Treasurer and Receiver General

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October 5, 2017

Mr. Liam O'Connell, Esq.
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(via mail and email)

Office of the Treasurer and Receiver General
Legal Department
One Ashburton Place, 12th Floor
Boston, MA 02108
(hand delivery only)

Re: Francis C. Catarius – 2017-VB-03

Dear Mr. O'Connell and Treasury Legal Department:

Enclosed please find the decision of the Veterans' Bonus Appeal Board in the above captioned matter. Any party aggrieved by the decision may, within thirty (30) days of receipt of this notice and enclosed decision, appeal to the Superior Court in accordance with the provisions of Massachusetts General Laws, Chapter 30A, § 14.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg M Polin".

Gregory M. Polin, Esq.
Deputy General Counsel, Treasury Designee

On behalf of the Veterans' Bonus Appeal Board:
Matthew P. Landry, Assistant Attorney General, Office of the Attorney General Designee
Lieutenant Colonel Anthony Sciaraffa, Adjutant General Designee

cc: Mr. Francis Catarius *(via mail)*
Ms. Alayna Van Tassel, Deputy Treasurer *(via email)*
Mr. Steven Croteau, Veterans' Bonus Supervisor, Treasury *(via email)*

COMMONWEALTH OF MASSACHUSETTS
VETERANS' BONUS APPEAL BOARD

2017-VB-03

IN RE: FRANCIS C. CATARIUS

MEMORANDUM OF DECISION

The appellant, Francis C. Catarius, served on active duty in the U.S. Army from November 26, 1974 to November 25, 1978, and received an honorable discharge. He subsequently applied to the Commonwealth's Veterans' Bonus Division ("Bonus Division") for a bonus under Chapter 692 of the Acts of 1973, as amended by the Vietnam Conflict Bonus Statute, Chapter 112 of the Acts of 2010. The Bonus Division denied Catarius's application because although he served a four-year enlistment, less than six months of that service took place during the Vietnam conflict, which the Vietnam Conflict Bonus Statute identifies as July 1, 1958 through May 17, 1975. Catarius appeals, claiming that the Bonus Division's interpretation of the statute as requiring that he must have served during Vietnam for at least six months is incorrect. We agree and accordingly reverse the decision of the Bonus Division.

FACTS

At a hearing held on June 6, 2017, the Bonus Division and Catarius, through counsel, submitted numerous exhibits. Catarius also offered his own testimony.¹ After careful consideration of all the evidence and the parties' submissions, the Board makes the following findings of material fact:

¹ While stressing that we have fully considered the evidence introduced at the hearing, we also note that this case presents a pure question of law and none of the material facts are in dispute.

1. Francis C. Catarius was a resident of Massachusetts for over 18 years prior to his entry into active service (Ex. 1).
2. Catarius entered active service in the U.S. Army on November 26, 1974 (Ex. 2).
3. Catarius was stationed in Fort Lewis, Washington. He did not serve in the Vietnam conflict area (Ex. 1-2).
4. Catarius was honorably discharged on November 25, 1978 (Ex. 2).

DISCUSSION

Section 1 of Chapter 692 of the Acts of 1973 provides that:

“[T]here shall be allowed and paid out of the treasury of the commonwealth without appropriation to each person, who shall have served in the armed forces of the United States in active service, since [July 1, 1958] and prior to [May 17, 1975²] who was discharged or released under honorable conditions from such service, the sums hereinafter specified; provided that the domicile of every person on account whose service the application is filed shall have been in the commonwealth for a period of not less than six months prior to the time of his entry into the service.

(1) Three hundred dollars to each such Vietnam veteran who performed active service outside the continental limits of the United States in the Vietnam area, as said area is described by federal authority.

(2) Two hundred dollars to each such Vietnam veteran who performed active duty within the continental limits of the United States, or without the continental limits of the United States in an area other than the Vietnam area for a period of six months or more.”

None of the material facts are in dispute. The Bonus Division acknowledges that Catarius was domiciled within the Commonwealth for at least six months prior to his entry into active service. The parties also agree on the relevant dates of service, and the fact that Catarius was discharged honorably from the Army. The sole issue before us, therefore, is how to interpret the phrase “for a period of six months or more” within subsection (2) of the Vietnam Conflict Bonus

² Inserted by Section 32 of Chapter 112 of the Acts of 2010.

Statute. The Bonus Division argues that all six months of a Vietnam veteran's stateside service must have taken place within the dates of the Vietnam conflict (that is, between July 1, 1958 and May 17, 1975). Catarius, on the other hand, argues that any service of six months or longer qualifies, so long as at least one day of that service occurred within the Vietnam conflict dates.

We begin by noting that when interpreting a statute, "statutory language should be given effect consistent with its plain meaning and in light of the aim of the Legislature unless to do so would achieve an illogical result." *Welch v. Sudbury Youth Soccer Ass'n, Inc.*, 453 Mass. 352, 354–55 (2009) (quoting *Sullivan v. Brookline*, 435 Mass. 353, 360 (2001)). "Where, as here, the language of a statute is clear and unambiguous, it is conclusive as to the intent of the Legislature." *Id.* The Vietnam Conflict Bonus Statute has in its emergency preamble a stated purpose to "provide prompt recognition of Massachusetts residents upon their honorable discharge or release from duty in the armed forces of the United States during the hostilities in Vietnam." Thus, it is obvious from the text of the statute itself that the Legislature intended for persons who actively served in the armed forces of the United States during the Vietnam conflict to receive a bonus as a token of appreciation on behalf of the citizens of the Commonwealth. Specifically, the statute provides for a \$300 bonus to veterans who served within the Vietnam area for any length of time, and a \$200 bonus to veterans who served either within the continental United States or in an area other than the Vietnam area for a period of six months or more.

We first conclude that Catarius is a "Vietnam veteran," as we interpret that term to have been defined in the Vietnam Conflict Bonus Statute. Under the first paragraph of Section 1, a "Vietnam veteran" is a person who served "in the armed forces of the United States in active service, since [July 1, 1958] and prior to [May 17, 1975] [and] who was discharged or released

under honorable conditions from such service” This paragraph contains no requirement that a person must serve a minimum number of days in order to qualify as a “Vietnam veteran.” Catarius served during the Vietnam conflict, therefore he qualifies as a “Vietnam veteran.”

But our inquiry is not done. Because Catarius did not serve “in the Vietnam area,” his eligibility for a bonus must be determined under subsection (2), which requires that “Vietnam veterans” who served outside the Vietnam area must have served “for a period of six months or more.” Contrary to the interpretation urged by the Bonus Division, there is nothing in the words of subsection (2) that requires that all six months of that service must take place entirely within the July 1, 1958 through May 17, 1975 conflict period. It would be illogical to give a \$300 bonus to a hypothetical veteran who served one day within the Vietnam area—as subsection (1) permits—but deny a \$200 bonus to another veteran who served outside the Vietnam area for more than six months but whose service included time within the Vietnam conflict. The language in the emergency preamble of the Vietnam Conflict Bonus Statute, as well as in the statute itself, supports this interpretation. *See Commissioners of Bristol Cty. Mosquito Control Dist. v. State Reclamation & Mosquito Control Bd.*, 466 Mass. 523, 529 (2013) (“words of a statute must be construed in association with other statutory language and the general statutory plan”) (quoting *Polaroid Corp. v. Commissioner of Revenue*, 393 Mass. 490, 497 (1984)). This reading is also consistent with the statutory definition of a “veteran,” which provides for designation after wartime service of as little as one day. *See* G.L. c. 4, § 7, cl. 43 (a “veteran” shall mean “any person, (a) whose last discharge or release from his wartime service as defined herein, was under honorable conditions and who (b) served in the army, navy, marine corps, coast guard, or air force of the United States, or on full time national guard duty . . . for not less than 90 days active service, at least 1 day of which was for wartime service”). We conclude, therefore, that a

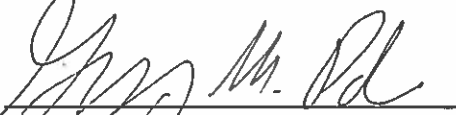
Vietnam veteran who served for at least six months outside the Vietnam conflict area, at least one day of which was during the conflict period of July 1, 1958 through May 17, 1975, is eligible for a \$200 bonus under subsection (2).

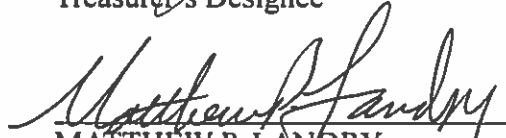
The decision of the Bonus Division is **REVERSED**. If the Bonus Division wishes to appeal this decision, it may file a complaint in the Superior Court for Suffolk County within thirty (30) days of receiving this decision. *See* G.L. c. 30A, § 14.

VETERANS' BONUS APPEAL BOARD

By:


ANTHONY SCIARAFFA
Adjutant General's Designee


GREGORY M. POLIN
Treasurer's Designee


MATTHEW P. LANDRY
Attorney General's Designee

Dated: October 5, 2017