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On appeal from the  
Department of Veterans Affairs Regional Office in Boston, Massachusetts

#### THE ISSUE

Entitlement to service connection for Parkinson's disease.

#### REPRESENTATION

Appellant represented by:      Gina D. Holness, Attorney

#### WITNESSES AT HEARING ON APPEAL

Appellant and spouse

#### ATTORNEY FOR THE BOARD

A. D. Jackson, Counsel

#### INTRODUCTION

The Veteran had active service from September 1964 to August 1968.

This matter comes to the Board of Veterans' Appeals (Board) on appeal from a December 2010 rating decision of the Department of Veterans Affairs (VA) Regional Office (RO) in Boston, Massachusetts, which denied the above claim.

In April 2012, the Veteran testified at a hearing before the undersigned Veterans Law Judge. The case was remanded in January 2014 and has been returned to the Board for review.

#### FINDING OF FACT

The evidence is in equipoise on the issue of whether the Veteran incurred Parkinson's disease during active service.

#### CONCLUSION OF LAW

The criteria for service connection for Parkinson's disease have been met.    38 U.S.C.A. § 1110 (West 2014); 38 C.F.R. §§ 3.303, 3.307, 3.309 (2015).

#### REASONS AND BASES FOR FINDING AND CONCLUSION

The Veteran currently suffers from Parkinson's disease. He contends that this disease links back to exposure to herbicides during his period of active duty-specifically to a six month temporary duty assignment in Guam on Andersen Air Force Base. There, he alleges

that his work as a mechanic included work maintaining trucks that were used primarily for pumping Agent Orange into aircraft which would then disperse it. He was told that this substance was a "defoliant" at the time. He claims that these vehicles would not be cleaned of the defoliant prior to his work on them. He also claims that the defoliant was used on the perimeter of the base.

Service connection means that a veteran has a disability resulting from disease or injury incurred in or aggravated by active service. 38 U.S.C.A. § 1110; 38 C.F.R. § 3.303(a). Service connection may be granted for any disease diagnosed after discharge when the evidence shows that the disease was incurred in service. 38 C.F.R. § 3.303(d).

If a veteran was exposed to an herbicide agent during active service, a number of diseases, including Parkinson's disease, shall be service connected if the requirements of 38 C.F.R. § 3.307(a)(6) are met even though there is no record of such disease during service. 38 C.F.R. § 3.309(e). There is a presumption of exposure to herbicides (to include Agent Orange) for all veterans who served in Vietnam or the Korean DMZ during the Vietnam era. 38 U.S.C.A. § 1116(f); 38 C.F.R. § 3.307(a)(6). However, the Veteran has not asserted, nor does the record suggest, that he served within the Republic of Vietnam or the Korean DMZ. As such, the presumption of herbicide exposure does not apply, and actual, direct exposure to herbicides must be shown. See *Combee v. Brown*, 34 F.3d 1039, 1042 (Fed. Cir. 1994).

Service records indicate that the Veteran had a temporary duty assignment at Andersen Air Force Base (AFB) in Guam from September 1966 to March 1967. The RO submitted a request for verification of exposure to herbicides to the U.S. Army and Joint Services Records Research Center (JSRRC) based on the Veteran's records. The JSRRC responded that it was unable to verify or document that the Veteran was exposed to Agent Orange or other tactical herbicides while stationed at Andersen AFB, Guam.

However, the Veteran has provided some evidence corroborating his claim regarding contamination at Andersen AFB on Guam. Specifically, the U.S. Environmental Protection Agency has designated the base a Superfund cleanup site due to the extensive contamination of its soil from various activities engaged in by air force personnel since the early 1940s. The JSRRC stated that to date, the available historical data did not document any Agent Orange or tactical herbicide spraying, testing, storage, dispersal, or usage on the Island of Guam during 1966 through 1967. This indicates that there was no evidence of their usage, not that they were not used. With such an evidentiary background, the Board cannot find that a preponderance of the evidence is against the assertion of in-service herbicides exposure. As such, the Board finds that the Veteran was exposed to herbicides while stationed in Guam.

Although the Board finds that the Veteran was exposed to some type of herbicide while in service, it must point out that presumptive service connection pursuant to 38 C.F.R. § 3.307 and § 3.309 is not warranted. Specifically, although the Veteran is competent to testify as to the use of vegetation killing sprays, he is not competent to testify as to the particular chemical compound of that spray. Section 3.307 specifically defines the type of herbicides required to trigger the presumptive service connection provisions. There is no evidence that the Veteran knew it was of the same type as that used in Vietnam. Therefore, presumptive service connection is not warranted. However, as explained below, direct service connection is established.

The only medical professional who commented on the Veteran's claim to medical nexus between diabetes and service offered a supportive opinion. In an October 2009 letter, William Tosches, M.D. stated that it was more likely than not that the Veteran's Parkinson's disease was related to his exposure to herbicides while stationed in Guam. The supportive opinion has some probative value that tends to favor the claim.

In sum, the Board cannot find that a preponderance of the evidence of record demonstrates that the Veteran did not experience herbicides exposure during service, or that the in-service exposure is not causally related to the current Parkinson's disease. As such, this is an appropriate case in which to invoke VA's

doctrine of reasonable doubt. 38 U.S.C.A. § 5107(b); 38 C.F.R. § 3.102. A finding of service connection is therefore warranted for Parkinson's disease.

ORDER

Service connection for Parkinson's disease is granted.

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P.M. DILORENZO  
Veterans Law Judge, Board of Veterans' Appeals