

**Statement to the Recovering Warrior Task Force**  
**15 January 2013**

Over the past two years, I have presented a common theme to the Task Force; there is inadequate enforcement and oversight of well-established disability laws, policies and regulations. This cheats our wounded warriors out of proper DoD disability benefits. The case of SGT Lynn Jarvis is a prime example of this problem.

SGT Jarvis, a member of the Ohio National Guard, deployed to Iraq in 2005 for a 15 month combat tour. While there his duties included monitoring and guarding burn pits. In December 2009 he was diagnosed with an inoperable and terminal malignant brain tumor. The VA service connected his brain tumor and rated it at 100% disabling. His command found the brain tumor to be in the line of duty. His oncologist estimated his tumor began 3-5 years prior to discovery. SGT Jarvis was on active duty 18 of the 24 months of that two year onset window.

In 2012 SGT Jarvis underwent DES evaluation where his medical board declared that his brain tumor incurred while entitled to basic pay. However, his Informal Physical Evaluation Board (IPEB) declared the condition was not connected to his active duty and ordered him to be separated without DoD disability benefits. So much for the VA and DoD operating on the same service connections standards as required by law.

The PEB violated several laws and policies when they adjudicated SGT Jarvis' case. Key violations include:

- The PEB failed to adjudicate the case based on the favorable line of duty LOD determination as required by DoD policy and Army Regulations.

- The PEB failed to adjudicate the case under the line of duty standard vice the much more restrictive proximate result standard.

- The PEB failed to provide clear and unmistakable evidence to overcome the presumptions of service connection and service aggravation as required by law (10 USC 1201).

- The PEB failed to address the issues raised in SGT Jarvis' IPEB appeal in an itemized and orderly fashion as required by 10 USC 1222a, thus leaving him blind as to their decision rationale.

Our wounded warriors deserve fair disability evaluation conducted to the required standards. DoD must enforce these standards. Again I ask the Task Force to address these concerns with concrete recommendations to DoD and Congress. Our wounded warriors deserve nothing less.

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