

This is Charlie Woolford, I'm conducting a hearing on behalf of Ms. Pamela S. Jones. The veteran's name was Donald B. Jones. The VA file number is [REDACTED]. We're at the San Antonio VA Office on November 3, 1997 at 9:29 a.m.

Let the record show that Ms. Jones is accompanied by her representative from the TVC, Mr. Juan Ferreris and also by a witness, Mr. Charles M. Bartlett.

Ms. Jones and her witness have been duly sworn.

The issue at today's hearing is service connection for cause of death to include Non-Hodgkin's Lymphoma secondary to Agent Orange exposure.

MR. WOOLFORD: Ms. Jones, would you like a copy of the hearing transcript for your record?

MS. JONES: Yes I would.

MR. WOOLFORD: Thank you. Mr. Ferreris, do you need a copy for your records?

MR. FERRERIS: Yes sir.

MR. WOOLFORD: All right, thank you. Mr. Ferreris, at this point, would you like to go ahead and begin the hearing by making an opening statement and/or questioning of Ms. Jones and her witness please?

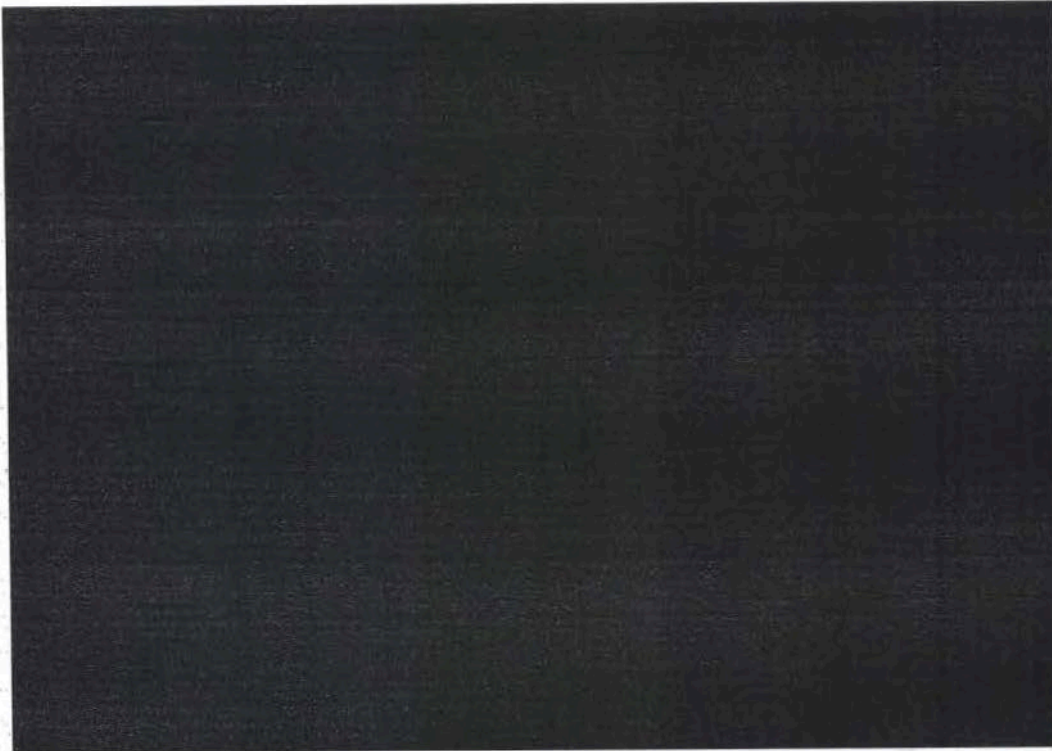
MR. FERRERIS: Thank you Mr. Woolford. I'd like to thank you on behalf of Mrs. Pamela Jones and her witness, Mr. Charles Bartlett for taking time to come in to present their case in support of a pending appeal for service connection death for Non-Hodgkin's Lymphoma as secondary to Agent Orange exposure.



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MRS. JONES: [REDACTED]



[REDACTED] Um, he said that they used to, I don't know if you've ever been down in Panama but they are, the buildings at the telecommunications are up on hills and they are thick cement walls, and they have huge chain link fences around 'em and they keep these chain link fences in, about how many feet Mr. Bartlett?

MR. BARTLETT: Usually several hundred feet or perhaps several hundred yards outside the perimeter. They try to control the vegetation to keep, for security purposes primarily.

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So, what happens is, as Mr. Bartlett can tell you is, the first thing with the association to herbicides is, you want to go ahead?

MR. BARTLETT: Usually Chloracne, it's one of the initial symptoms, it's one of the things that often, medical conditions that often develop upon, rather soon after exposure to Chlorinated Hydrocarbons.

MRS. JONES: And ah...

MR. FERRERIS: And your professional education is related to chemical, analysis chemistry of this kind of field sir?

MR. BARTLETT: Yes. I was trained at the University of Oklahoma. I was born and raised in Oklahoma City. I went to the University of Oklahoma and I have a bachelors degree in botany and chemistry. And then I continued on in graduate school at that university and ah, studying plant physiology. At that time, after my graduate work was completed I did have a ROTC commission in the US Army chemical corps and at the time, after I finished my graduate work I went to the officer basic training program at Fort McCellan Alabama in the chemical corps. And then I was assigned to the army's biological research and development laboratories in their _____ division at Fort Detrick in Fredrick Maryland. And at that time I discovered that the army had an interest in herbicides which coincided with my training in herbicides in graduate school. And so, at ah, after that, my assignment at, to Fort Detrick and arrival there, I was, began working in the herbicide research development program. At that time the Army had a responsibility for herbicide research and development. And for the next ten years I was an operations officer and a research and development officer with the chemical laboratories. And I traveled to many tropical locations testing and formulating these chemicals.

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MR. FERRERIS: And you indicated Mrs. Jones that you are aware that this chemical was used in Panama?

MR. BARTLETT: Yes. After about ten years of work in the, with the laboratories on herbicides, as the interest in herbicides in the '70s, well actually after 1970, as the use began to wean I was reassigned to other duties within the chemical corps and was assigned to 5th Army Headquarters here at Fort Sam Houston in San Antonio. In about 1981 or '82, I received a phone call from Washington D.C and was told that the justice department was involved with a lot of Agent Orange litigation and they were looking for a chemical corp officer who was still, who had been involved initially in all of the work and I was asked if I would come to Washington D.C. to work with the justice department, to assist them in the discovery process to address the Agent Orange litigation. I did go to Washington on temporary duty and soon after my arrival there the overwhelming nature of this workload became apparent and I, my TDY to Washington D.C. was changed to a PCS. I remained there for two and a half years and became the director of their Agent Orange litigation support project later called support center. In that complex, within that project or that center, there were some thirty-seven attorneys, some civilian attorneys, some justice department attorneys, and representatives from all of the military services, and the veterans administration, and many other organizations, department of USDA, and other organizations that were involved in the early research work. It was our job to discover the documents that would, that lead to the development of all these agents and also to see if some defense could be mounted for the US government against the many, several billions of dollars worth of claims at that time that were being launched by the, against the federal government by many veterans who were claiming exposure to Vietnam and subsequent health damage. We did amass some three million documents as a result of that work and at the end of 1985 I retired from the military. And since that time I've been retired and living in San Antonio and I did immediately after my retirement I was requested to talk to many veteran's groups and about the Agent Orange problem and in fact I did conduct a number of radio, was involved in radio talk shows across the nation and here in this city with WOAI. But, since 1988 I've more or less stayed out of this, this discussion, or this controversy.

MR. FERRERIS: And from the knowledge that you've gained, or your involvement with this program, was it a fact that this chemical was used in Panama during the period that Mrs. Jones' husband was present there?

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MR. BARTLETT: That's correct. I have with me today a, a document called a miscellaneous publication number 16, it's the proceedings of the 3rd Defoliation Conference on August 10 and 11 in 1965. The document was published in September 1966 by the Department of the Army, Fort Detrick, Fredrick Maryland. And in that document of which I have extracts here, and I have the original document in front of me, it indicates that Agent Orange and other military herbicides were used and tested, and shipped to many locations in the United States and including Tennessee, Maryland, Georgia, and Texas, and Fort Drum New York, and also was tested in a number of tropical climate analogues, that is a vegetation areas that might match South East Asia jungle environments. And those locations were in Puerto Rico and in Panama, and in the Apalachicola National Forest in Florida.

MR. FERRERIS: So in your professional opinion, you know, as a chemist, the medical note dated November 10, 1972 indicating severe acne problem, it would mean to you that that was an early sign of what exposure to this chemical was causing in the veteran?

MR. BARTLETT: Yes it would. In the late 1960s, several hundred drums was shipped to Panama and of that material in Panama a smaller amount was used in testing programs. All of the material was originally shipped, at least the Bill of Lading called for shipment to Fort Clayton in canal zone. That was an area under US control and it was a safe area with vegetation similar to Vietnam and so we wanted to test it there. At the end of that testing program a quantity of, a number of 55 gallon drums were left in Panama, extensively under the control of Fort Clayton and so that, those drums remained in Panama for an indefinite period and were never shipped out of Panama, were left there permanently in Panama. And available for use by anybody who needed it because at that time there was no idea at all that there was anything harmful about Agent Orange.

MR. FERRERIS: So it was known to be Agent Orange?

MR. BARTLETT: Yes. It was shipped, we shipped it from Fort Detrick. We shipped it to Panama and it was in the typical black drum with the orange stripe and it was for our testing program under ARPA order 423, ARPA, A-R-P-A is Advanced Research Projects Agency which was funding these test, research and development program at that time. And so we shipped Agent Orange to Panama.

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MR. FERRERIS: In our discussion previously, you both you have discussed the fact that during the 1972 the actual complications, you know, from the exposure to Agent Orange, but really limited, you know, they're not widely accepted or widely known, you know, as we know 'em today. As to all these other things, you know, that are associated to this herbicide and that you were saying that you feel that even though this was not called Chloracne, you know, in 1972, you know, that probably, you know, that the reason was at the time, you know, it was not a clear knowledge of, of this as a symptom of exposure to this chemical?

MR. BARTLETT: That's true. In the medical literature acne can chlor can, Chloracne can masquerade as routine acne and if you're a medical person in an area other than Vietnam you might not, you might just use the term acne, severe acne in a medical, in a soldiers medical record rather than the term Chloracne. But typically for years, even stemming from civilian production lines, in chemical companies in West Virginia, it was known that when people would come into close proximity or were working with or near chlorinated hydrocarbons, one of the first and clearest cut medical problems would be Chloracne. And usually that developed within perhaps 30 days of their exposure or certainly within we would expect it to develop within a year or less of their exposure to chlorinated hydrocarbons especially Agent Orange or something that contained Dioxin.

MR. FERRERIS: What it is that we're talking about is shown on exhibit 4 which is you know, Agent Orange review dated December 1991 were it does say that Chloracne is a skin condition that looks like common forms of acne and then it also says physicians even dermatologist sometimes have difficulty in distinguishing Chloracne from other more common skin disorders. And the only reason we are bringing this up is to show that the veteran was beginning to exhibit consequences of the exposure to this chemical, you know, while he was on active duty. And even though it may not have been understood at the time that since he wasn't in Vietnam that, you know, that it was, you know, Agent Orange related and that's why Mr. Bartlett was invited by Mrs. Jones to come in because he knows first hand after being involved with this Agent Orange project that the limitation that, that was imposed, you know, that it is presumptive cause for veterans in Vietnam. It is more realistic to accept that there were veterans such as Mr. Jones that were in fact suffering the same consequences as those that were on the ground in Vietnam. So, Mrs. Jones, going back to you, during the time that he was showing more complications, did he ever file a claim for service connection of, you know, related to Agent Orange?

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MRS. JONES:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES: Yes.

MR. FERRERIS:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES: Yes.

MR. FERRERIS:

[REDACTED]

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MRS. JONES: [REDACTED]

MR. FERRERIS: [REDACTED]

MR. WOOLFORD: Yes please.

MR. FERRERIS: [REDACTED]

MR. WOOLFORD: All right, thank you.

MRS. JONES: [REDACTED]

MR. FERRERIS: [REDACTED]

MRS. JONES: [REDACTED]

MR. WOOLFORD: Would you spell that for me please?

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MR. FERRERIS:

MR. WOOLFORD: Okay, thank you.

MR. FERRERIS:

MRS. JONES:

MR. FERRERIS:

. Is there any other points Mrs. Jones that you want to bring up or that you want to ask Mr. Bartlett at this time?

MRS. JONES: Well I'd like him to talk a little bit more about how, about the testing and the different areas. You said that they put these chemicals in different areas to try and get the same climate as Vietnam and that you know for a fact that one of 'em was Panama?

MR. BARTLETT: Yes Mrs. Jones. The, when the research and development project was initiated, the earlier work was done in the United States as I mentioned, in Georgia...

MR. WOOLFORD: All right, we went ahead and changed the tape here. Mr. Bartlett please continue.

MR. BARTLETT: The research and development work went forward with helicopter spraying and ground spraying in heavily forested areas in the United States to include Georgia, Tennessee and Fort Drum New York. After that initial work was completed, it became apparent that deciduous species like _____ (someone coughed) and other trees, all trees, other trees were not responding perhaps the same way that more resistant tropical vegetation would respond. So we began to look for safe areas, that is non-combat zone areas where we could test these herbicides. And at that time there was Agent Purple and Agent Orange, and another, Agent White, and Agent Blue which was _____ acid and other material. And so we began to look around for areas that were controlled by the

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United States and were safe and those included of course Mayaguez Puerto, the USDA had a research dilemmas site there at Mayaguez in Puerto. We also looked at the canal zone or Panama because we controlled the property there. The United States controlled the property there and the vegetation was thick and lush and somewhat similar to what it would be in Vietnam. So the work went forward there. It was mostly low altitude aerial spraying primarily with helicopters and a lot of the work at that time was also conducted on the ground. Now the recommendation for aerial spray was the use of about ten gallons per acre if you were doing it through aerial means. When the material was applied by ground means, that is trucks or compression pump up sprayers or some such thing that the soldier could use on the ground, the actual application rate was far, far higher than ten gallons per acre. And so typically we saw, especially in the hands of unskilled applicators we found areas where the application rate was high enough that you could see greasy, a greasy sheen on the foliage or vegetation and so, the exposure rate was much higher than would be even typical of Vietnam applications which was done by C-123 aircraft.

MRS. JONES: Yeah because he mentioned how if he, his skin would become, like oily or something you know after going through and doing whatever he did. So...

MR. BARTLETT: Initially I asked Mr. Jones if her husband's medical records included any mention of acne because that's one of the typical things that we used to look for first in exposure to Chlorinated Hydrocarbons and it turns out that there is a reference in the medical files to Chloracne soon after his arrival on site. These Stratcom facilities are strategic communications facilities in Vietnam and other parts of the world were very very important to the Vietnam war effort and were, enjoyed the highest priority for herbicide use. And so we saw the use of herbicides around Stratcom or strategic communications facilities in several parts of the world.

MR. FERRERIS: Anything else Mrs. Jones?

MRS. JONES: I have this document from the Department of Army from the US Garrison in Panama. I know, I've been trying to go through my statement of the case to make sure that I cover it all. This is the use of herbicides in Panama. This is dated June 20, 1997 and in this use of herbicides in Panama from '70 to '74 they do list 2-4-D for control of broad leaf leaves, _____, _____, and Burmecle and I

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think as Mr. Bartlett can tell you, a lot of the people that did this were not educated and that's one of the reasons they did do the color coding, isn't it?

MR. BARTLETT: Yes.

MRS. JONES: Because it was just, the engineer would say you go pick up, you go get this color drum and you use this for this plant and that's how it was actually done. So, this is into evidence that the chemical that is listed in the statement of the case that I would have to have is there. And um,

MR. FERRERIS: A copy of the statement of the case, that may help you.

MRS. JONES: Yeah.

MR. FERRERIS: Bringing up anything you want.

MRS. JONES: Let me get it, I'm sorry. On ah, presumptive service connection for chronic tropical or prisoner of war related diseases or diseases associated with exposure to certain herbicidal agents war time and service or are after January 1, 1947, this is 3.307. For the purpose of this section the term herbicide agent means a chemical in a herbicide used in support of the United States and allied military operations. This says in the Republic of Vietnam during the Vietnam era which my husband served in the Vietnam era. Specifically 2-4-D, 2-4-5-T and it's contaminate T-C-D-D, Casalic acid and...

MR. BARTLETT: Cacodylic acid.

MRS. JONES: [REDACTED]

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[REDACTED]

MR. FERRERIS:
Woolford can...?

[REDACTED]

MRS. JONES:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES:

[REDACTED]

MR. FERRERIS:

[REDACTED]

MRS. JONES:

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[REDACTED]

MR. WOOLFORD: [REDACTED]

MRS. JONES: [REDACTED]

MR. WOOLFORD: [REDACTED]

[REDACTED]

MRS. JONES: Yeah.

MR. WOOLFORD: I mean it's...

MR. FERRERIS: [REDACTED]

[REDACTED]

MR. WOOLFORD: Right, I understand.

MR. FERRERIS: Okay.

MRS. JONES: Anything Mr. Bartlett?

MR. FERRERIS: Is there anything, I see that you're looking at the research...

MRS. JONES: The herbicide...

MR. FERRERIS: Is there anything else sir?

MR. BARTLETT: No, no, that's all I have.

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MR. FERRERIS: Okay, that's all the questions I have at this point so I'll pass it on to you sir if you have any other questions.

MR. WOOLFORD: Okay. I don't have any questions. The service medical records are already a part of the evidence therefore you don't need to resubmit that, we have all of that.

MRS. JONES: Okay.

MR. WOOLFORD: Do you have anything else you'd like to add at this point?

MRS. JONES: Just that I wrote something, can I read it?

MR. WOOLFORD: If you've got a written statement you can submit it.

MRS. JONES: Okay.

MR. FERRERIS: Also you can read it if you want, if, you know, I realize that he is concerned about the next schedule but I don't think your statement is that long, so...

MRS. JONES: [REDACTED]

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MR. FERRERIS: [REDACTED]

MR. WOOLFORD: I have no questions.

MR. FERRERIS: So, I can have my closing statement sir?

MR. WOOLFORD: Do you want to go ahead and make a closing statement?

MR. FERRERIS: [REDACTED]

MR. WOOLFORD: All right, thank you. Mrs. Jones, I want to thank you for coming in today and I want to thank Mr. Bartlett also for coming in, for your testimony. I will carefully consider all of the evidence including the testimony presented today and make a decision and we'll notify you by mail. Thank you.

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MRS. JONES: Thank you.

MR. FERRERIS: Sir, as usual at this point, you know, and I explained this to Mrs. Jones, just as a courtesy, you know, we want to know if she is satisfied, you know, with the opportunity that, you know, that you and me afforded her, you know, to come in with her witness Mr. Bartlett and present her case and present her arguments and the evidence to her satisfaction?

MRS. JONES: Yes I was. Thank you very much.

MR. FERRERIS: Thank you ma'am.

MRS. JONES: Mr. Bartlett will you...

MR. BARTLETT: Yes, I appreciate the opportunity to talk about the situation today.

MR. FERRERIS: Thank you sir.

MR. WOOLFORD: Thank you for coming also. Let the record show our hearing is completed at 10:20.

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