

## Veterans Appellate Law Group

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Alton P. Carriere, Esq.  
alton@vetsappeals.com

p. 504-218-2510  
365 Canal St, Suite 415  
New Orleans, La 70130

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### **FREEDOM OF INFORMATION ACT REQUEST**

VIA FACSIMILE

Department of Veterans' Affairs  
Records Management Center  
P. O. Box 5020  
St. Louis, MO 63115  
FAX: (314) 679-3615

VIA FACSIMILE

Department of Veterans' Affairs  
Evidence Intake Center  
FAX: (844) 531-7818

Re: Veteran: Matthew D. McMenimen  
VA Claim No.:   
Veteran SSN: 

Dear Sir or Ma'am:

This is a request for documents under 38 U.S.C. §§ 5701(b)(1) and 5702; the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552; and 38 C.F.R. §§ 1.525 and 1.526 (2014) on behalf of veteran Matthew D. McMenimen. I am McMenimen's appointed representative to whom he has authorized the release of his Department of Veterans Affairs records. See the enclosed VA Form 21-22a, executed on October 03, 2017. Please post my appointment in the Claims File, as well as all electronic records (SHARE, VACOLS, CAPRI, Virtual VA, VBMS, and others which may be relevant) pertaining to the veteran for our access and so that I may receive a copy of any correspondence sent to the veteran. I am requesting these documents so that I may better assist McMenimen with his various claims for VA benefits.

#### **Identification of Documents**

I hereby request a copy of all documents contained in any VA claims folder for any of McMenimen's claims, to include all documents in McMenimen's VA claims folder, to include all documents in the right flap, left flap and center flap of the claims folder, and all documents in any VBA file related to Veteran's Title 38 Claim(s), including but not limited to "Virtual VA", VBMS-A, VBMS-R, and VBMS-D, as well as any documentation pertaining to this Veteran and/or his/her VA claims and/or Appeals in AMIE/CAPRI/VGRIS/VACOLS, and/or in any

other system of records in the BVA (or under contract with the VBA) used to preserve information (whether substantive, procedural, or meta-data) related to those records, wherever such records about the Veteran's claim are kept or stored by the VA.

**Form/Format in Which to Produce Information**

The FOIA and the VA's own internal policies related to FOIA requests require that the records be produced in the format sought by the requester if the record is readily reproducible in that form or format. I prefer receipt of these records on CD-ROM in PDF format.

Please take special care to ensure that both sides of any two-sided documents produced in response to this request are included in the response, and are scanned into a PDF in such a way that they do not "bleed-through" from one side of the document to the other.

**Time For Response**

Please note that this request for documents is being made pursuant to the Privacy Act, 5 U.S.C. § 552, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552a, as well as 38 C.F.R. § 1.550 and 38 C.F.R. § 1.577. Your agency has a duty to respond to this request within TWENTY (20) BUSINESS DAYS of the date of this request pursuant to 5 U.S.C. § 552 (a)(6)(A)(2)(i).

Additionally, although an extension of time to respond may be requested, it may only be granted for "unusual circumstances." "Predictable agency workload" is not typically considered an unusual circumstance as stated in 5 U.S.C. § 552(a)(6)(C)(ii). Moreover, even to the extent that unusual circumstances could be demonstrated in this instance, the time limit for the extension is limited to "10 working days" pursuant to 38 C.F.R. § 1.553(d).

Please also be aware that your agency's failure to respond to this request within twenty business (20) days can result in the filing of an administrative appeal with the office of the Secretary of the Department of Veterans Affairs pursuant to 38 C.F.R. § 1.557 and 5 U.S.C. § 552(a)(6)(A)(2)(ii), and/or, the filing of a federal lawsuit to compel the production of the information.

In any such appeal or lawsuit, I intend to seek not only injunctive and/or monetary relief related to this request, but to the extent permitted by law, injunctive and/or monetary relief based on the Department of Veteran's Affairs patterns and/or practices of responding to FOIA requests in a manner violative of the FOIA, as well as attorney fees and litigation expenses, and any other remedy/relief available at law.

**Where to Produce the Request Documents**

Please send the copied documents directly to me at the following address:

Veterans Appellate Law Group  
365 Canal St  
Suite 415  
New Orleans, LA 70130

I may be contacted at (504) 218-2510 if you have any questions regarding this request. Thank you for your assistance.

Best Regards,

A handwritten signature in black ink, appearing to read "Alton P. Carriere". The signature is fluid and cursive, with the first name "Alton" being the most prominent.

Alton P. Carriere

Enclosure: VA Form 21-22A

Cc: Matthew D. McMenimen

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|---|--|---|
| <b>Department of Veterans Affairs</b>   |  | 1. VA FILE NO(S) (Include prefix)<br>[REDACTED] |
| <b>APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE</b>   |  |   |
| <p><b>Note - If you would prefer to have a service organization assist you with your claim, you may use VA Form 21-22, "Appointment of Veterans Service Organization As Claimant's Representative."</b></p>   |  |   |
| <p><b>PRIVACY ACT NOTICE:</b> VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records-VA, published in the Federal Register. Your obligation to respond is voluntary. However, failure to respond provide the requested information could impede the recognition of your representative and/or identification of disclosable records. Except for information protected by 38 U.S.C. 7332, your representative is not prohibited from redisclosing records. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.</p> |  |   |
| <p><b>RESPONDENT BURDEN:</b> We need this information to recognize the individual's appointment to act for or behalf of in preparation, presentation, and prosecution of claims for VA benefits (38 U.S.C. 5902, 5903, and 5904) and for those individuals to accept appointment. We will also use the information to obtain consent for disclosure of VA records to the appointed representative (38 U.S.C. 5701(b) and 7332) Title 38, United States Code, allows us to ask for this information. We estimate that claimants and individuals appointed for purposes of representation will each need an average of 5 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. A Valid OMB control number can be located on the OMB Internet Page at <a href="http://www.reginfo.gov/public/do/PRAMain">www.reginfo.gov/public/do/PRAMain</a>. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.</p>  |  |   |
| 2. NAME OF CLAIMANT (Veteran, guardian, beneficiary, dependent, or next of kin)<br><br>Matthew D. McMenimen   | 3. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP Code)<br><br>5817 Balsa Place NE<br>Albuquerque, New Mexico 87111 |   |
| 4. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN  | 5. SERVICE NUMBERS<br><br>[REDACTED]   |   |
| 6. BRANCH OF SERVICE<br><input type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> AIR FORCE <input checked="" type="checkbox"/> MARINE CORPS <input type="checkbox"/> COAST GUARD <input type="checkbox"/> OTHER (Specify _____)   |  |   |
| 7A. NAME OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE<br><br>ALTON P. CARRIERE  |  |   |
| 7B. INDIVIDUAL IS (check appropriate box)<br><input checked="" type="checkbox"/> ATTORNEY <input type="checkbox"/> AGENT <input type="checkbox"/> INDIVIDUAL PROVIDING REPRESENTATION UNDER SECTION 14.630<br>(*See required statement below. Signatures are required in Items 7C and 7D)   |  |   |
| <p><b>*INDIVIDUALS PROVIDING REPRESENTATION UNDER SECTION 14.630</b><br/>                 (Skip to Item 8, if the box for "Individual Providing Representation Under Section 14.630" was not checked in Item 7B)</p> <p>The appointment of the individual named in Item 7A (the representative) authorizes the individual to represent the claimant named in Item 2 for a particular claim pursuant to the provisions of 38 CFR 14.630. By our signatures below, we, the representative and the claimant, attest that no compensation will be charged or paid for the individual named in Item 7A.</p>  |  |   |
| 7C. SIGNATURE OF REPRESENTATIVE NAMED IN ITEM 7A<br><br>  |  |   |
| 7D. SIGNATURE OF CLAIMANT NAMED IN ITEM 2<br><br>   |  |   |
| 8. ADDRESS OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE (No. and street or rural route, city or P.O., State, and ZIP Code)<br><br>365 Canal Street, Suite 415<br>New Orleans, Louisiana 70130   |  |   |

**9. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C.**

Unless I check the box below, I do not authorize VA to disclose to the individual named in Item 7A any records that may be in my file relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia.

I authorize the VA facility having custody of my VA claimant records to disclose to the individual named in Item 7A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by my representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

**10. LIMITATION OF CONSENT.** My consent in Item 9 for the disclosure of records relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia is limited as follows:

**11. AUTHORIZATION FOR REPRESENTATIVE TO ACT ON CLAIMANT'S BEHALF TO CHANGE CLAIMANT'S ADDRESS**

Unless I check the box below, I do not authorize the individual named in Item 7A to act on my behalf to change my address in my VA records.

I authorize the individual named in Item 7A to act on my behalf to change my address in my VA records. This authorization does not extend to any other individual without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

**CONDITIONS OF APPOINTMENT**

I, the claimant named in Item 2, hereby appoint the individual named in Item 7A as my representative to prepare, present, and prosecute my claims for any and all benefits from the Department of Veterans Affairs (VA) based on the service of the veteran named in Item 4. If the individual named in Item 7A is an accredited agent or attorney, the scope of representation provided before VA may be limited by the agent or attorney as indicated below in Item 15. If the individual indicated in Item 7A is providing representation under 14.630, such representation is limited to a particular claim only. I authorize VA to release any and all of my records (other than as provided in Items 9 and 10) to that individual appointed as my representative, and if the individual in Item 7A is an accredited agent or attorney, this authorization includes the following individually named administrative employees of my representative:

Signed and accepted subject to the foregoing conditions

12. SIGNATURE OF CLAIMANT

*Marta M. Men*

13. DATE OF SIGNATURE

10/3/17

14. CLAIMANT'S RELATIONSHIP TO VETERAN  
(If other than the veteran)

**15. LIMITATIONS ON REPRESENTATION - AGENTS OR ATTORNEYS ONLY** (Unless limited by an agent or attorney, this power of attorney revokes all previously existing powers of attorney)

16. SIGNATURE OF REPRESENTATIVE

*Attk P. C*

17. DATE OF SIGNATURE

10/3/17

**FEES:** Section 5904, Title 38, United States Code, contains provisions regarding fees that may be charged, allowed, or paid for services of agents or attorneys in connection with a proceeding before the Department of Veterans Affairs with respect to benefits under laws administered by the Department.