

Report from Capitol Hill late February 2019.

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MVA had a very productive week on the Hill to wrap up February. We met with numerous new Members of Congress of both parties. The reception was generally positive. Discussions centered around the Blue Water Navy bill, the new Guam bill, long range toxic exposure and funding issues.

Congressman San Nicholas of Guam will be rolling out the Lonnie Kilpatrick Central Pacific Herbicide Relief Act on March 13, 2019. Lonnie’s widow and daughter will be coming to Washington for the rollout. A “Dear Colleague” letter will be issued early next week to solicit original co-sponsors. We are hoping to obtain at least 50 Members to sign the original bill. The Kilpatrick bill will cover Guam, American Samoa, Northern Mariana Islands and Johnston Island. We have significant evidence to confirm the presence of the dioxin on Guam and herbicide use up until at least 1980. We previously have filed a rule making request with the VA however they have not yet taken a position. As we move more towards implementation of benefits for the Blue Water Navy community, this bill becomes our top legislative priority. Along with MVA Deputy Chief of Staff for Legislative Affairs, Sgt. Maj. Jim Kuiken, USMC (ret), who is a Guam veteran, I met with Congressman San Nicholas’ staff to co-ordinate the rollout. Everything appears to be on schedule.

We also met with the House Veterans Affairs staff to massage the revised language to HR 299 the Blue Water Navy Vietnam Veterans Act. This is especially critical because we do not want to take any action that could unintentionally limit or reduce the scope of the *Procopio v. Wilkie* decision. While I understand that people are getting impatient, it is essential that we get the language right. The VA will be looking for anything that can be used to argue that Congress has narrowed *Procopio*. So be patient.

We had an appointment scheduled with Senator Lee, but he blew it off. When everyone called to complain his staff said the appointment was cancelled because we were late. That was false! We were there on time. We actually met Lee’s 10 o’clock appointment who was still waiting to go in. He was called in at about 10:35. Several minutes later the Lee staffers came in and told us the Senator was in a Committee hearing,

Although we will agree to a future meeting, we do not anticipate that Lee will attend. Senator Lee will continue to put a hold on this meritorious bill. That is fine. He can do what he wants. We will not be in a time crunch this Congress as we were last year. After meeting with both the Majority and Minority staffs, we feel confident that both Senator Isakson and Senator Tester will support a request to Senator McConnell for floor time.

Feel free to call Senator Lee’s Washington office as often as you want at 202-224-5444 and ask for his reasoning. Please do not accept any excuses. Be civil and polite, but also be firm.

Some have asked why we still need HR 299 in light of *Procopio*. The problem is that a court decision only affects new claims and claims that are open at the time of the decision. HR 299 has a “look back” provision to force the VA to reopen previously denied claims that have been finally adjudicated.

We have been informed by the court that the mandate will issue on or before March 22. While we had hoped for an earlier date this is not inconsistent with the Court’s rules on panel cases. Those rules do not address *en banc* cases. The court has not ruled on the government’s motion to stay the mandate. We anticipate that this decision will come closer to the mandate date. As I have indicated, we are optimistic on this issue.

Talked with Secretary Wilkie during a recess at the HVAC hearing. He told the Committee and confirmed to me privately that he is not inclined to file a petition for *certiorari* in the *Procopio* case. He did leave open the possibility of some action by the State Department, but at this point that is speculation. We will address that possibility with the Department of Justice.

Our idea of pushing for a toxic exposure research center, funded by the VA but not directed by the VA, is gaining more traction. We are still working on funding ideas. One idea is to carve a veterans exception to the Pay As You Go Act of 2010. We intend to pursue that as a legislative priority. PAYGO has killed too many veterans’ bills. It needs to stop. More on that later.

Returning to Washington on March 12.

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