

Open Letter

To the United States Court of Appeals for the Second Circuit From the Vietnam Fatherland Front

Hanoi, SRVN.....

Your Honors,

We, the Viet Nam Fatherland Front, would like to bring to your attention the following: the Agent Orange produced by a number of U.S. chemical companies for use in the Vietnam War has borne heavy consequences, and this indisputable fact has been acknowledged by various governments in the world.

In his press conference on 28th May, 1969 at the White House, President Bill Clinton said *“I am announcing that Vietnam veterans, with prostrate cancer and the neuropathy, are entitled to disability disorder, payments based upon their exposure to Agent Orange. Our Administration will also propose legislation to meet the needs of veterans’ children afflicted with the birth defects, spina bifida – the first time to offspring of American soldiers will receive benefit for combat – related health problems”*

The United States has ever since paid billions of dollars in compensation to the victims of Agent Orange who are Vietnam veterans and their families. This is a clear indication that the consequences of Agent Orange use in the Vietnam War have been recognized in the United States.

After the United States' acknowledgement of that reality, ten years later, the Governments of New Zealand and Australia also declared that they would consider and address their Vietnam veterans' claims about exposure to Agent Orange while serving side by side with American in the Vietnam War. This is another evidence.

More recently, on January 26th, 2006, the High Court of Seoul in the Republic of South Korea ruled that Dow Chemical and Monsanto, two major U.S. producers and suppliers of Agent Orange, should pay 63 billion won, or 65 million USD as compensations to Korean veterans who had become Agent Orange victims due to their participation in the Vietnam War. This is yet another evidence.

The United States military conducted numerous experiments on Canadian land. As a consequence, though Canada did not send troops to participate in the war, a number of Canadians have become victims of the Agent Orange that was stored on their land. The Government of Canada has declared that it would consider the Canadian victims' claims against the U.S chemical companies.

The total number of Agent Orange victims in the United States, Australia, New Zealand, South Korea may reach dozens of thousands of people..

The main objectives of Agent Orange for almost a decade were the people and the environment of Vietnam. Certain areas of the country was subjected to repeated rounds of spraying, not just twice or three times, but ten times.

We can therefore say that this intentional destruction by Agent Orange was not only aimed at Vietnamese people and food crops but also all other living species, the environment and the ecology. The diseases suffered by the Vietnamese victims of Agent Orange have been much more numerous and serious than those afflicting veterans from countries allies of the United States in the Vietnam war. Forty years have elapsed since the destruction and yet the eco-systems and the environment of Vietnam still have to recover. Compared with those countries having sent troops alongside the United States' and with other wars in world history where chemical weapons have been used, the consequences caused by Agent Orange in Viet Nam in the Vietnam war are much more serious, more profound and more lasting.

The perpetrators should pay damages to their victims. This is a matter of universal morals.

The fact that the Vietnamese victims of Agent Orange have brought a civil action to demand that the U.S. chemical companies pay damages is in complete conformity with universal justice and minimum fairness.

In his "Memorandum, Order and Judgment" of March 10th, 2005, the Honorable J. Weinstein, Senior Judge of the United States District Court of Brooklyn, correctly rejected the defendants' arguments on the statute of limitations, plaintiffs' standing, the government contractor's immunity defense and the court's jurisdiction.

It was, thus, hard to conceive that Judge J. Weinstein would decide to dismiss the plaintiffs' complaint on the basis that "*Agent Orange and other herbicides used ...should be characterized as herbicides, not poisons.*"

If Agent Orange is not a poison, then why did President Bill Clinton officially recognize that many hundred thousands of veterans in the Vietnam War have become its victims? Why have many billions of United States dollars been appropriated by Congress for their compensation?

If Agent Orange is not a poison, why should the United States Department of Agriculture, the Department of Commerce and the Environmental Protection Agency ban the use of Agent Orange.

What was the reason forcing President Gerald Ford in 1971 to order the cessation of Operation Ranch Hand in Vietnam?

If we may use the analogy of Snow White and the apple that was meant to kill her, how should we characterize the apple that the witch gave to Snow White? Was it, indeed, a normal apple or a poisoned one? Judging by the fact of the story, how could anyone rule, in the name of justice, that: "*the apple that the witch gave to Snow White, though clearly poisoned, should still be characterized as a normal apple, not a poisoned one.*" Judge Weinstein might have been aware of the paradox he created when he stated in his judgment "*Should the Court of Appeals for the Second Circuit reverse dismissal on the grounds addressed in the present memorandum, the court will grant extensive discovery on the relevant general epidemiological and individual medical causation issues before addressing that problem.*"

There is of no lack of objective evidence and scientific grounds for proving the toxicity and severe consequences of the use of Agent Orange. The core issue lies in the fact whether the United States court would overcome all the obstacles hindering the fair hearing of this legal action. If the Vietnamese victims' case proceeds to trial, we believe that all of defendants' defense could never hide the truth, a truth that they have wanted to hide from the American people and peoples all over the world for the past 40 years.

As an organization representing all socio-political, social, socio-occupational associations of Viet Nam, the Vietnam Fatherland Front calls upon the United States Court of Appeals for the Second Circuit to consider the truth and reverse the decision made by Judge J. Weinstein so that fairness and justice may be returned to the Vietnamese plaintiffs.

On behalf of the Vietnam Fatherland Front Committee,
President

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