

STATEMENT PREPARED FOR THE RECORD  
BEFORE THE COMMITTEE ON ARMED SERVICES  
UNITED STATES HOUSE OF REPRESENTATIVES

ALEXIS WITT  
WIDOW OF SSGT. DEAN WITT

APRIL 30, 2019

Thank you Chairwoman Speier and to members of the subcommittee for the opportunity to speak today.

In October 2003 my husband SSGT Dean Witt underwent a routine appendectomy. The nurse anesthetist (CNRA) was faulted for having administered a lethal dose of Fentanyl resulting in respiratory and cardiac arrest. She failed to call a code blue, used pediatric equipment for resuscitation, and misdirected a breathing tube. Each mistake delayed critical seconds and Dean suffered severe brain damage and remained in vegetative state until I removed his feeding tube 3 months later. I later filed a wrongful death suit but my case was dismissed on grounds of the Feres Doctrine.

The Feres Doctrine was wrongly decided by the Supreme Court because it leads to not only medical malpractices but also the abuse of power and mistreatment of survivors, lack of transparency and lack of accountability.

#### Abuse of Power and Mistreatment

After the malpractice incident I met with two JAG officers, a Death Casualty Officer, and Dean's Major and First Sergeant to discuss permanently retiring Dean. I was outnumbered and without legal representation. I knew signing those documents was serious but I didn't understand all the implications or consequences it would impose. In distress I told the JAG officers I preferred to wait. I was threatened with the removal of my medical benefits and Dean's pay frozen until I signed the documents. Later on I would learn that the rush to have Dean retired came down to eligibility of survivor benefits as active duty death benefits differ from retired benefits.

#### Lack of Transparency

I was told a formal investigation would take place and would result in changes to safety protocols to prevent another tragedy from occurring. When I asked about details of these safety measures and for a copy of the investigation I was told that information was protected by Title 10 of the United States Code would not be made available to me or to anyone in the public and I would never fully know what happened to Dean in the O.R.

#### Lack of Accountability.

The nurse responsible for my husband's death was also responsible for the death of another Airmen just one year prior. A colleague stated she was considered the weakest link in their department. Despite her performance as being merited as unsatisfactory, no preventative measures were taken to curtail her advancement and she went on to kill two patients. If appropriate action had been taken on this nurse during her first lethal negligent episode Dean would still be alive today.

Compensation

Survivors Benefits are often cited by opposition as a reason not to move forward with Feres Reform. Military law expert Eugene Fidell, has quoted survivors benefits robust yet the do not take into account pain and suffering. These benefits also come with restrictions whereas an award settlement would not have such restrictions:

COMPENSATION	AWARD SETTLEMENT
Every year twice a year I have to fill out Certificate of Eligibility (COE) proclaiming that I have not remarried in the past year.	Survivors would not have an unnecessary reminder that their spouse is dead or injured.
SBP DIC Offset cuts 65,000 spouses out of nearly \$12,000 a year in compensation. SBP is an insurance annuity and DIC is VA benefit but yet they count against one another and they shouldn't.	No offset with an award settlement.
If the survivor remarries he or she forfeits the VA benefit.	No remarriage restriction with an award settlement.
Earned Income Restrictions.	No Earned Income Restrictions.
Department of Defense Survivors Benefit (SBP) is Taxable. SBP is being treated same as trust or estate, which means minor children can be taxed at rate as high 37%. Department of Veteran Affairs Dependency and Indemnity Compensation (DIC) is not Taxable, nor is it transferable	The IRS does not tax award settlements for personal injury cases, wrongful death cases.

I hope my experiences with Feres Doctrine have served a higher purpose and gives you a well-rounded view of its effects on our military and their dependents. Thank you for holding this hearing and for your time.