

OPINION NO. 66-051

Syllabus:

The veterans of military action in Vietnam, being otherwise qualified under the provisions of Section 5901.08, Revised Code, are included among those persons eligible for Soldiers' Relief as provided for in Sections 5901.02 to 5901.12, inclusive, Revised Code.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio
By: William B. Saxbe, Attorney General, March 2, 1966

Your office recently requested my opinion as to the eligibility of veterans of the conflict in Vietnam to Soldiers' Relief as provided in Chapter 5901, Revised Code.

Section 5901.01, Revised Code, defines "soldier" as "an honorably discharged soldier, sailor, or marine, who served in the army or navy of the United States."

Section 5901.08, Revised Code, provides that the list of applicants for relief "shall include soldiers, sailors, marines, and airmen of the Spanish-American War, World War I, World War II, or the Korean War and their wives, widows, needy parents, minor children, and wards, who have been bona fide residents of the state for one year, and of the county six months, and who, in the opinion of such committee, require aid and are entitled to relief under such sections."

The question for our resolution, therefore, is whether the inclusion of Spanish-American War veterans, and veterans of World War I, World War II, and the Korean War excludes any other veterans not mentioned, or whether, as in the definition of Section 5901.01, supra, all soldiers, sailors or marines are eligible for Soldiers' Relief.

The second syllabus of Opinion No. 693, Opinions of the Attorney General for 1951, held as follows at page 421:

"2. The Soldiers' Relief Law, Section 2930 to 2941, of the General Code, is intended to furnish relief to all needy soldiers, sailors and marines who have been mustered into service and who are serving or who have served in the military forces of the United States, including but not limited to soldiers, sailors,

and marines of the Spanish-American War, World War I, World War II, and the Korean War, and to their needy dependents as described in Section 2934, General Code."

Opinion No. 693, *supra*, followed Opinion No. 2976, Opinions of the Attorney General for 1931, page 278, which it quoted extensively. At page 279, Opinion No. 2976, *supra*, reads as follows:

"The first legislation of this character was enacted in May, 1886 (83 O.L. 232), and provision was then made with respect to Union soldiers, etc. only. While various amendments occurred thereafter, the act continued to apply only to Union soldiers until April 14, 1900, when the word 'Union' was omitted, and the section then referred to all indigent soldiers, sailors and marines. The purpose of this amendment, following closely after the Spanish-American War, was quite evidently to include the soldiers of that war within the meaning of the section. Again, on May 6, 1917, there was an amendment which contained an express provision to include the indigent soldiers, sailors and marines of the Spanish-American War. The significance of this change is not apparent, since these veterans were already included in the general language of the section as amended in 1900. On May 10, 1919, the legislature again amended this section so as to include indigent soldiers, etc. who served in the war against Germany, and the 88th General Assembly made the final change in the statute to its present form.

"From this history, I am unable to ascribe to the terminology used any different meaning than that which is apparent upon its fact. If the words 'all indigent soldiers, sailors and marines' are of no significance and one must look to the explanatory phrases thereafter for the authority to extend benefits, then quite obviously a very substantial number of persons who have always been entitled to relief would be omitted. I have reference to Civil War Veterans, and those of our military, naval and marine forces who have served in lesser conflicts such as Indian Wars, the Boxer Rebellion, Mexican Expedition and other like occasions. Manifestly, no such

restricted meaning may be applied, for surely it was not the intention of the legislature to confine the beneficiaries of relief to soldiers, sailors and marines of the Spanish-American War and the World War only."

Opinion No. 693, supra, went on to conclude that the actual mustering of a person into the military service of the United States is the test of his eligibility and that of his dependents to become beneficiaries of the law under consideration.

It is clear from the above, that my predecessors in office have applied the Soldiers' Relief Act to all soldiers, sailors, and marines, and have not regarded the benefits as limited only to those veterans of those wars set forth, nor is there a restriction to specific time periods.

Therefore, it is my opinion and you are hereby advised that the veterans of military action in Vietnam, being otherwise qualified under the provisions of Section 5901.08, Revised Code, are included among those persons eligible for Soldiers' Relief as provided for in Sections 5901.02 to 5901.12, inclusive, Revised Code.