

*within the boundaries of the Republic.* See VAOPGCPREC 27-97. Specifically, the General Counsel has concluded that to establish qualifying “service in Vietnam” a Veteran must demonstrate actual duty or visitation in the Republic of Vietnam. Service on a deep water naval vessel in waters off the shore of the Republic of Vietnam, without proof of actual duty or visitation in Vietnam, does not constitute service in Vietnam for purposes of 38 U.S.C.A. § 101(29)(A) (establishing that the term “Vietnam era” means the period beginning on February 28, 1961 and ending on May 7, 1975 in the case of a Veteran who served in Vietnam during that period). See VAOPGCPREC 27-97; see also *Haas v. Nicholson*, 20 Vet. App. 257 (2006), rev’d sub nom. *Haas v. Peake*, 525 F.3d 1168 (Fed. Cir. 2008), cert. denied, 77 U.S.L.W. 3267 (Jan. 21, 2009) (No. 08-525).

If a Veteran was exposed to an herbicide agent during active military, naval, or air service, Type 2 diabetes (also known as Type II diabetes mellitus or adult-onset diabetes) shall be service-connected, even though there is no record of such disease during service. 38 C.F.R. § 3.309(e). The diseases listed at 38 C.F.R. § 3.309(e), including Type II diabetes mellitus, shall have become manifest to a degree of 10 percent or more at any time after service. 38 C.F.R. § 3.307(a)(6)(ii). The record shows the Veteran has a current diagnosis of diabetes mellitus. Private medical records note a history of diabetes mellitus that was diagnosed in the 1980s. A VA examination in July 2005 diagnoses insulin-dependant diabetes mellitus type II which was poorly controlled.

The Veteran’s personnel records show that he was awarded the Vietnam Service Medal (VSM) and a National Defense Service Medal for service during the period of June 1962 to August 1966. The VSM was awarded to all members of the armed forces who served in Vietnam and contiguous waters and airspace between July 3, 1965 and March 28, 1973. The fact that the Veteran received this award does not establish that he actually was present within the boundaries of Vietnam.

It is undisputed that given the guidance in VAOPGCPREC 27-97, if the Veteran’s service had been limited to service on the U.S.S. Oklahoma City outside the territorial boundaries of the Republic of Vietnam, the presumptions contained in the regulations would be inapplicable to his case as he would not have met the criteria