



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 3499-00  
25 April 2001



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 April 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, it considered the comments of your counsel.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the rationale of the hearing panel of the Physical Evaluation Board which considered your case on 22 May 1996. It noted that your subjective complaints concerning the alleged severity of your conditions were not substantiated by objective evidence. It concluded that there was no more than mild impairment associated with the rated conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

RATIONALE

ON 31 OCTOBER 1995, A MEDICAL BOARD WAS CONVENED AT THE NAVAL HOSPITAL, CAMP LEJEUNE, NORTH CAROLINA IN THE CASE OF THIS 31 YEAR OLD MEMBER WITH THE FOLLOWING DIAGNOSES:

- (1) GASTROESOPHAGEAL REFLUX DISEASE, 53081
- (2) HYPERTENSION, 4019
- (3) HYPERCHOLESTEROLEMIA, 2720
- (4) CHRONIC HEADACHES, 7840
- (5) IRRITABLE BOWEL SYNDROME, 5641
- (6) GENERALIZED ANXIETY DISORDER, 30002
- (7) HISTORY OF ALCOHOL ABUSE, 3039

ON 29 JANUARY 1996, THE RECORD REVIEW PANEL OF THE PHYSICAL EVALUATION BOARD EVALUATED THIS CASE, AND FOUND THE MEMBER TO BE UNFIT FOR DUTY WITH A DISABILITY RATING OF 10% UNDER VA CODE 7399-7346. THE RECOMMENDED DISPOSITION WAS SEPARATION FROM ACTIVE DUTY SERVICE WITH SEVERANCE PAY. THE MEMBER DISAGREED WITH THESE FINDINGS, AND REQUESTED A FORMAL HEARING.

THE HEARING WAS CONDUCTED ON 22 MAY 1996, AT BETHESDA, MARYLAND, WITH CAPTAIN [REDACTED] USNR, AS PRESIDING OFFICER, AND COLONEL [REDACTED] USMC, AND CAPTAIN [REDACTED] USN AS PANEL MEMBERS. THE MEMBER WAS REPRESENTED BY [REDACTED] WANNEMACHER, DISABLED AMERICAN VETERANS.

THE MEMBER APPEARED IN PERSON AT THE FORMAL HEARING, PETITIONING TO BE FOUND UNFIT FOR DUTY WITH A DISABILITY RATING OF 30% UNDER VA CODE 7399-7319, 10% UNDER VA CODE 7101, AND 10% UNDER VA CODE 8100, FOR A TOTAL ROUNDED DISABILITY RATING OF 40%, WITH PLACEMENT ON THE TEMPORARY DISABILITY RETIREMENT LIST. AVAILABLE TO THE HEARING PANEL WERE THE CASE FILE, SERVICE RECORD AND HEALTH RECORD. THERE WERE NO ADDITIONAL EXHIBITS ENTERED INTO EVIDENCE.

AFTER CAREFUL REVIEW OF ALL AVAILABLE EVIDENCE, THE PHYSICAL EVALUATION BOARD FINDS THE MEMBER TO BE UNFIT FOR DUTY IN THE U. S. NAVY BECAUSE OF A CONDITION WHICH INTERFERES WITH THE ADEQUATE PERFORMANCE OF REQUIRED MILITARY DUTIES. THE RECORD DOCUMENTS THAT THE MEMBER HAS THE FOLLOWING CONDITIONS - CATEGORY I: (1) GASTROESOPHAGEAL REFLUX DISEASE, 53081; (5) IRRITABLE BOWEL SYNDROME, 5641; CATEGORY III: (2) HYPERTENSION, 4019; (4) CHRONIC HEADACHES, 7840; (6) GENERALIZED ANXIETY DISORDER, 30002; CATEGORY IV: (3) HYPERCHOLESTEROLEMIA, 2720; (7) HISTORY OF ALCOHOL ABUSE, 3039.

IN JUNE 1994 THE MEMBER WAS DIAGNOSED WITH PROBABLE GASTROESOPHAGEAL REFLUX DISEASE, AND STARTED ON ANTACID THERAPY. REFLUX LIKE SYMPTOMS CONTINUED, AND HE UNDERWENT ENDOSCOPY IN JULY 1994 WHICH WAS NORMAL. THERE WAS NO EVIDENCE OF ESOPHAGITIS. THE CONDITION WAS POORLY RESPONSIVE TO ZANTAC. IN OCTOBER 1995 A PH MONITOR STUDY CONFIRMED PATHOLOGIC REFLUX DISEASE. THE MEMBER WAS

SCHEDULED TO UNDERGO A LAPROSCOPIC NISSEN FUNDOPLICATION, BUT HE DECLINED THE PROCEDURE. THE GASTROESOPHAGEAL REFLUX DISEASE IN THE CASE OF THIS MEMBER IS UNFITTING FOR DUTY. THE CONDITION IS RATABLE AT 10% UNDER VA CODE 7399-7346. THE MEMBER ALSO SUFFERS WITH IRRITABLE BOWEL SYNDROME WITH INTERMITTENT DIARRHEA UP TO EIGHT TIMES PER DAY AND CONSTIPATION. THERE WAS ACCOMPANYING ABDOMINAL CRAMPING OFTEN IN THE LEFT UPPER QUADRANT. HE HAS BEEN TREATED WITH PSYLLIUM BULKING AGENT AND DIETARY MODIFICATION. THERE HAS BEEN NO WEIGHT LOSS OR GENERAL DETERIORATION AS A RESULT OF THE CONDITION. HE DOES NOT SOIL HIMSELF. DUE TO THE NEED TO BE WITHIN REASONABLE PROXIMITY TO A TOILET MUCH OF THE TIME, THE CONDITION IS CONSIDERED TO BE SEPARATELY UNFITTING FOR DUTY. A DISABILITY RATING OF 10% IS ASSIGNED UNDER VA CODE 7319. THE MEMBER HAS EXPERIENCED CHRONIC INTERMITTENT HEADACHES WHICH HAVE BEEN CONSIDERED TO BE VASCULAR (MIGRAINOUS) IN NATURE. ACCORDING TO THE MEDICAL BOARD, THEY DO NOT REPRESENT SIGNIFICANT PATHOLOGY. HE HAS A HEADACHE APPROXIMATELY FIVE DAYS PER WEEK. THEY ARE NOT PRESENT UPON AWAKENING, BUT WORSEN DURING THE DAY AND ARE ACCOMPANIED BY PHOTOPHOBIA. THEY PRIMARILY BEGIN AS RIGHT SIDED HEADACHES, RADIATING TO THE OCCIPIT AND VORTEX. HE HAS NOT SEEN A NEUROLOGIST FOR THE HEADACHES. THERE HAS BEEN NO EMERGENCY TREATMENT FOR THE HEADACHES. HE TAKES FIORINAL. THE CONDITION IS NOT SEPARATELY UNFITTING FOR DUTY, AND IS CLASSIFIED AS A CATEGORY III. THE MEMBER HAS A HISTORY OF HYPERTENSION WHICH IS RELATIVELY WELL CONTROLLED WITH CALAN WHICH HE TAKES ON A DAILY BASIS. THE CONTROLLED HYPERTENSION IS NOT UNFITTING FOR DUTY.

THE 10% RATING UNDER VA CODE 7399-7346 COMBINES WITH THE 10% RATING UNDER VA CODE 7319, TO YIELD 19%, WHICH ROUNDS TO A TOTAL DISABILITY RATING OF 20%. THE MEMBER IS TO BE SEPARATED FROM ACTIVE DUTY WITH SEVERANCE PAY.