



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

JRE  
Docket No: 3617-02  
2 December 2002



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 15 November 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, the Board 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 that considered your case on 17 October 1991, a copy of which is attached. 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

PHYSICAL EVALUATION BOARD  
HEARING PANEL  
BETHESDA, MARYLAND 20889-5135

1850  
PEB:ber  
12 NOV 1991

From: President, Physical Evaluation Board  
To: [REDACTED]

Subj: DISABILITY EVALUATION FINDINGS OF THE PHYSICAL EVALUATION BOARD

Ref: (a) SECNAVINST 1850.4C

Encl: (1) Rationale For PEB Findings ICO  
[REDACTED]

1. On 17 October 1991, the Physical Evaluation Board reviewed your case by formal hearing and considered all evidence presented and of record in accordance with reference (a). The PEB made the following findings:

a. You are physically unfit to perform the duties of your office, grade, rank or rating.

b. Your diagnosis, international classification of diseases code (ICD9) and disability rating are:

<u>DIAGNOSIS AND ICD9</u>	<u>DISABILITY RATING</u>	
	<u>VA CODE</u>	<u>PERCENT</u>

CATEGORY I:

ALL UNFITTING CONDITIONS

1. DEPRESSIVE DISORDER CHRONIC, 3110	] 9209	30
	] LESS EPTE	10
		<u>20</u>

CATEGORY III:

THOSE CONDITIONS THAT ARE NOT SEPARATELY UNFITTING AND DO NOT CONTRIBUTE TO THE UNFITTING CONDITION

2. ASTHMA IN REMISSION, 49390

*Print Labels*

4

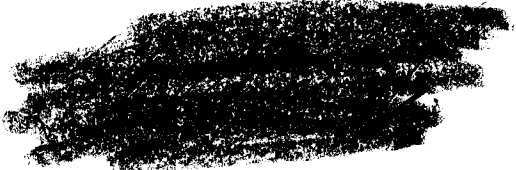
Subj: DISABILITY EVALUATION FINDINGS OF THE PHYSICAL EVALUATION BOARD ICO  


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c. Basis. The basis for the PEB findings is contained in enclosure (1).

2. Disposition. You are to be separated from the naval service with severance pay, but without further disability benefits in accordance with the provisions of 10 U.S.C. 1203 or 1206, as appropriate.

3. Opinion on Combat-Related Disability. It is the opinion of the PEB that the unfitting conditions were not combat-related IAW 26 U.S.C 104 (b) (3).



RATIONALE:

THE MEMBER IS A 28 YEAR OLD SGT, USMCR, WITH ABOUT 11 YEARS OF TOTAL ACTIVE AND RESERVE SERVICE AT THE TIME OF HIS APPEARANCE BEFORE A MEDICAL BOARD AT GREAT LAKES NAVAL HOSPITAL ON 14 MAY 1991 WITH THE DIAGNOSES:

- (1) DEPRESSIVE DISORDER, CHRONIC, MILD; AND
- (2) ASTHMA IN REMISSION.

ACCORDING TO THE MEDICAL BOARD REPORT AND OTHER AVAILABLE RECORDS, THE MEMBER RETURNED TO ACTIVE DUTY ABOUT 6 AUGUST 1990. DUE TO STRESSES IMPOSED BY LONG WORK HOURS, DIFFICULTIES INTERACTING WITH A SUPERVISOR, AND THE STRESSES IMPOSED BY MOBILIZATION FOR OPERATION DESERT SHIELD, HE WAS SEEN AT THE WRIGHT-PATTERSON MENTAL HEALTH CLINIC IN DECEMBER 1990 FOR COMPLAINT OF "JOB STRESS" AND AFTER SEVERAL VISITS GIVEN DIAGNOSES OF ADJUSTMENT DISORDER WITH DEPRESSED MOOD AND A PERSONALITY DISORDER NOT OTHERWISE SPECIFIED WITH PASSIVE AGGRESSIVE, HISTRIONIC, AND BORDERLINE TRAITS. HE WAS HOSPITALIZED ON 4 MARCH 1991 BECAUSE OF A DRAMATIC CHANGE IN PHYSICAL SYMPTOMS OF CONFUSION AND UNRESPONSIVENESS. AFTER EXTENSIVE EVALUATION BY INTERNAL MEDICINE AND NEUROLOGY WITHOUT APPARENT PHYSICAL CAUSE OF HIS SYMPTOMS, HE WAS TRANSFERRED TO PSYCHIATRY. THERE WAS A PAST HISTORY OF A HOSPITALIZATION IN 1988 FOR DEPRESSION WHEN HE FAILED TO RECEIVE A PAY RAISE, WITH TREATMENT ON TWO SEPARATE OCCASIONS AS AN OUTPATIENT THAT INCLUDED TREATMENT AT DIFFERENT TIMES WITH DESIPRAMINE, STELAZINE, AND PROZAC, AS WELL AS A HOSPITALIZATION FOR A SUICIDE GESTURE BY OVERDOSE ON DESIPRAMINE IN SEPTEMBER 1989. A PHYSICAL EXAM SF-93 OF 11 MARCH 1989 INDICATED THE MEMBER WAS TAKING ADAPIN. PSYCHOLOGIC EVALUATION NOTED THE MEMBER WAS SIGNIFICANTLY DEPRESSED WITH POOR INSIGHT RELATED TO RECENT OCCUPATIONAL STRESS AND LONGSTANDING INTERPERSONAL PROBLEMS, ESPECIALLY WITH AUTHORITY FIGURES, PLUS CHRONIC LOW SELF-ESTEEM. OBSERVED BEHAVIOR ON THE PSYCHIATRIC WARD WAS INCONSISTENT AND UNUSUAL AND SEEMED MOST CONSISTENT WITH THE PERSONALITY DIAGNOSIS AND POSSIBLY SECONDARY GAINS. HE WAS TREATED WITH NORTRIPTYLINE BUT REMAINED SELECTIVELY RESISTANT TO STAFF INTERVENTION AND TREATMENT BUT WITH FULL AFFECT AND SOCIALIZATION WITH FAMILY, FRIENDS, AND OTHER PATIENTS. NO EVIDENCE OF PSYCHOSIS WAS NOTED.

THE PEB RECORD REVIEW PANEL CONSIDERED THE CASE ON 26 JULY 1991 AND FOUND THE MEMBER UNFIT FOR DUTY BECAUSE OF PHYSICAL DISABILITY RATABLE AT 30% UNDER V.A. CODE 9209, LESS AN EPTE FACTOR OF 10%, FOR A TOTAL DISABILITY RATING OF 20%. THE MEMBER DISAGREED WITH THIS FINDING AND DEMANDED A FORMAL HEARING.

ENCLOSURE: (1)

THE MEMBER APPEARED AT THE FORMAL HEARING CONDUCTED 17 OCTOBER 1991 REQUESTING TO BE FOUND UNFIT FOR DUTY WITH A DISABILITY RATING OF 30% UNDER V.A. CODE 9209 AND PLACED ON THE TDRL. THE MEMBER ALLEGED THAT HIS PAST PROBLEMS HAD RESOLVED AND THE CURRENT PROBLEM WITH DEPRESSION IS NOT RELATED TO THE PREVIOUS PROBLEM; THAT HIS CURRENT CONDITION WAS CAUSED BY HIS MISTREATMENT AT THE RESERVE CENTER BY HIS SUPERVISORS AND THE STRESS OF EXCESSIVE WORK DEMANDS; AND THAT HE IS NOW TREATED WITH PAMELOR AND HAS BEEN SENT HOME AWAITING ORDERS AND NOT ALLOWED TO PERFORM ANY DUTIES. TO SUPPORT HIS REQUEST THE MEMBER PRESENTED NON-MEDICAL EVIDENCE LETTERS FROM HIS WIFE, A SUPERVISOR, AND CO-WORKERS, A COPY OF HIS REQUEST FOR MAST, AND A COPY OF HIS DISABILITY CLAIM WITH STATE FARM INSURANCE COMPANY.

AFTER CAREFUL REVIEW OF ALL THE AVAILABLE EVIDENCE AND BASED ON UNANIMOUS OPINION OF THE HEARING PANEL, THE PHYSICAL EVALUATION BOARD FINDS THE MEMBER UNFIT FOR FULL DUTY IN THE U.S. MARINE CORPS BECAUSE OF PHYSICAL DISABILITY. THE RECORD CLEARLY DOCUMENTS THAT THE MEMBER HAS A CHRONIC DEPRESSIVE DISORDER THAT REQUIRES TREATMENT WITH ANTIDEPRESSANTS AND REGULAR OUTPATIENT THERAPY. THIS INTERFERES WITH THE PERFORMANCE OF MARINE CORPS DUTIES AND LIMITS ASSIGNABILITY. ALTHOUGH THE RECORD ALSO CLEARLY DOCUMENTS THAT THE MEMBER HAD A SIGNIFICANT HISTORY OF DEPRESSION REQUIRING SEVERAL HOSPITALIZATIONS AND OUTPATIENT TREATMENT PRIOR TO ENTRY, THERE IS DOCUMENTED SERVICE SPECIFIC STRESSES THAT EXACERBATED THE MEMBER'S SYMPTOMS THAT CONSTITUTES SERVICE AGGRAVATION.

ALTHOUGH A LARGE PORTION OF THE MEMBER'S CURRENT SYMPTOMS AND FUNCTIONAL IMPAIRMENT IS RELATED TO THE PERSONALITY DISORDER, WHICH IS NOT RATABLE, THE DEGREE OF IMPAIRMENT DUE TO THE DEPRESSIVE DISORDER IS CONSIDERED TO MEET THE CRITERIA FOR THE DEFINITE CATEGORY WARRANTING THE 30% DISABILITY RATING. HOWEVER, THE DEGREE OF IMPAIRMENT FROM THE PRE-SERVICE CHRONIC DEPRESSIVE DISORDER IS CONSIDERED TO MEET THE CRITERIA FOR AT LEAST THE MILD CATEGORY, THUS JUSTIFYING SUBTRACTION OF A 10% EPTE FACTOR. THIS GIVES A TOTAL DISABILITY RATING OF 20%.

THE PERSONALITY DISORDER IS CONSIDERED A CATEGORY IV CONDITION THAT DOES NOT CONSTITUTE A PHYSICAL DISABILITY.