



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

JRE

Docket No: 212-00

5 February 2001

[REDACTED]

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 1 February 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 Physical Evaluation Board which considered your case on 29 June 1999, a copy of which is attached. In addition, it was unable to conclude that you suffered from the residuals of an injury which was incurred while you were entitled to basic pay and rendered you unfit by reason of physical disability. 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

SAN DIEGO FORMAL PEB RATIONALE  
IN THE CASE OF  
[REDACTED]

The informal Physical Evaluation Board found the member not physically qualified for retention in the Naval Reserves on 20 April 1999.

This member appeared before the formal PEB on 29 June 1999 requesting to be found physically qualified for retention in the Naval Reserves.

Accepted documentary evidence consisted of:

- Exhibit A - PEB Case File
- Exhibit B - Additional Medical Evidence
- Exhibit C - Performance Data
- Exhibit D - Ltr from [REDACTED] dtd 05 Mar 99
- Exhibit E - Ltr from [REDACTED] dtd 11 Jan 99
- Exhibit F - Ltr from [REDACTED] dtd 23 Jun 99
- Exhibit G - Ltr from Congressman Dixon dtd 08 Apr 99

The member was referred for a psychiatric evaluation in August 1998 because of progressively bizarre behavior during annual active duty for training. He was hospitalized at Naval Medical Center, San Diego from 21 August until 27 August 1998. In the narrative summary, the evaluating psychiatrist reports some of the problems the member had during his three to four days prior to his admittance to the hospital. The member had disobeyed a lawful order and had been UA from multiple formations and had refused to participate in exercises. He refused to put out a cigarette while standing near explosives, was counseled for this and then refused to sign the chit. He left his post without relief and fell asleep twice while on watch.

During the hospitalization, the member was diagnosed as having a psychotic disorder not otherwise specified. He was eventually discharged back to his reserve unit at NAB Coronado. The process was then begun for an evaluation of whether he was physically qualified to remain in the reserves. On 13 November 1998, BUMED found the member NPQ.

The member notes that he was on Motrin for a back injury at the time he was hospitalized. The member does not actually assert that he was psychotic secondary to Motrin, but rather he asserts that he was not psychotic at all. The member did submit Exhibit B, an excerpt from some book on drug therapy that lists the side effects for Motrin. These include "psychic disturbances."

The member also submitted evaluations by two civilian physicians. Exhibit D is an evaluation from a psychiatrist done on 5 March 1999 which notes that, at that time, the member was "currently" showing no evidence of a major psychiatric disorder. The member

[REDACTED]

noted that he paid the evaluating psychiatrist \$700. The member also submitted Exhibit E, an evaluation from a civilian neurologist from January 1999, who noted that the member was mentally competent at that time. When the member was asked about this evaluation from a neurologist as opposed to a psychiatrist, he responded that the neurologist "knows a lot about the brain."

The member and his counsel asserted that the member was more competent to make a psychiatric diagnosis than Dr. [REDACTED] the senior psychiatrist on the inpatient unit. Dr. [REDACTED] is a particularly well respected and highly skilled clinician, graduate of Yale Medical School, who trained in psychiatry at Harvard. The member makes his living selling carpets and linoleum flooring. When asked why he wanted to stay in the Navy, he responded "I want to learn more corpsman." When asked why he was sure he had not had a psychotic disorder he answered "because this is all new to me."

The issue is not whether the member is currently psychotic. The issue is whether the member was psychotic in the summer of 1998 and, thus, at risk of decompensating and becoming psychotic again. The standard of proof is a preponderance of the evidence submitted. In the instant case, two competent Navy psychiatrists found the member to have suffered from a psychotic disorder during his week long hospitalization during the summer of 1998. On the other hand, there is the testimony of the member who is completely untrained in medicine or psychiatry and who was, by definition, out of touch with reality at the time of the episode. There is also the evidence submitted by two civilian physicians, neither of whom saw the member until many months after the episode and one of whom is not even a psychiatrist.

Thus, it is apparent that, by a much higher standard than mere preponderance of the evidence, the member did suffer a psychotic break in the summer of 1998. As noted in the history from the narrative summary, this very seriously interfered with the member's ability to carry out his duties. The member still refuses even to acknowledge that he had a psychotic disorder. Therefore, after careful consideration of all relevant medical evidence, the formal board finds the member not physically qualified to remain in the Naval Reserves.