



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 7790-17
APR 09 2018

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO FORMER MBR [REDACTED] USN,
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to be reinstated to the Temporary Disability Retirement List (TDRL).

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 March 2018 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner entered active duty with the Navy in October 1992. Following a Physical Evaluation Board (PEB) finding that he was unfit for continued naval service due to Chronic Pancreatitis with a 30% disability rating, Petitioner was placed on the TDRL effective 24 September 2002. Recurrent Pancreatic Pseudocyst was determined to be a related Category 1 diagnosis and Gastroesophageal Reflux Disease was determined to be a related Category 2 diagnosis.

c. Petitioner appeared for his first Periodic Physical Examination and was retained on the TDRL in 2004 but failed to appear for additional examinations resulting in his administrative removal from the TDRL in 2005. Petitioner asserts he never received orders regarding the missed periodic examinations.

d. On 7 July 2015, Petitioner suffered a stroke that resulted in his incapacitation and placement under legal guardianship.

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CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action.

The Board concluded that Petitioner should be placed on the Permanent Disability Retirement List. While the Board concluded that there was no evidence to support the Petitioner's claim he never received notification of a second periodic physical examination, the Board felt Petitioner's current physical condition warrants his placement on the PDRL in order to correct an injustice that exists in his record. The Board noted Petitioner continues to be rated by the Department of Veterans Affairs at 30% for his disability condition.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

Petitioner was placed on the Permanent Disability Retirement List for Chronic Pancreatitis (Idiopathic), VASRD 7347, with a disability rating of 30% effective the date of his administrative removal from the TDRL.

A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

[REDACTED]
Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]
Executive Director