



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

JRE  
Docket No: 1446-01  
26 December 2001



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 29 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.

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 5 November 1992, a copy of which is attached. The fact that the Department of Veterans Affairs (VA) raised your disability rating more than seven years after you were discharged was not considered probative of the existence of error or injustice in your naval record. It noted that whereas the VA may raise or lower disability ratings throughout a veterans lifetime, ratings assigned by the military departments are fixed as of the dated of separation or permanent retirement. 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 HEARING PANEL RATIONALE  
IN THE CASE OF

A medical board met at Naval Hospital, Bremerton, Washington on 05 June 1992 with diagnoses of:

1. Back Pain 7242
2. Probable Ankylosing Spondylitis 7200

The Record Review Panel found the member unfit for duty under VA Codes 5299-5292 on 29 March 1992 and rated his condition at 10% disability.

This member appeared before the Panel on 05 November 1992 requesting to be found unfit for duty and rated at 40% disability.

Additional accepted documentary evidence consisted of:

Adendum to Exhibit A  
Exhibits B thru G - Nonmedical Evidence

EN1 Entringer developed progressive low back pain and associated morning stiffness in 1990. The workup diagnosed probable ankylosing spondylitis. HLA-B27 is positive. Medications include Indocin.

The members of the Panel agree [REDACTED] is unfit for duty in the Navy due to back pain and stiffness that prevents him from performing the duties of his rate. The early/mild condition is ratable at 20% under VASRD 5099-5002, analogous to rheumatoid arthritis, as an active process. The disease is early and has yet to exhibit X-ray findings (ankylosis), affect his general health, or have any incapacitating exacerbations (requiring hospitalization or bedrest). Bowel and bladder symptoms are denied. Lung disease is not present. The physical examination of the back reveals lumbar tenderness, no spasm, and decreased flexion (Schober's test is 4 cm.). There are no sensorimotor deficits, and nerve stretch tests are negative. Thoracic expansion is noted to be restricted but is not documented (23 October 1992). Imaging in 1991 revealed a small central L5-S1 herniated nucleus pulposus without evidence of neural impingement. The herniated nucleus pulposus diagnosis has not been carried forward as the cause of his symptoms and is deleted. He also has patellofemoral pain syndrome. The knee examination is normal objectively (see 18 and 27 December 1991 entries). The knees are not unfitting and are not separately ratable.

Enclosure (1)

Subj: DISABILITY EVALUATION FINDINGS OF THE PHYSICAL EVALUATION  
BOARD ICO [REDACTED]

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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).

[REDACTED]