



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

JRE  
Docket No: 880-00  
20 February 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 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, 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 10 April 1997, a copy of which is attached. The fact that the Department of Veterans Affairs (VA) awarded you disability ratings for additional conditions was not considered probative or error or injustice in your case, because the VA assigns ratings without regard to the issue of fitness for military service. In the absence of evidence which demonstrates that you suffered from additional unfitting conditions which were ratable at or above 10% disabling at the time of your discharge, the Board was unable to recommend any corrective action in your case. 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 13 SEPTEMBER 1996, A MEDICAL BOARD WAS CONVENED AT THE NAVAL HOSPITAL, CAMP LEJEUNE, NORTH CAROLINA IN THE CASE OF THIS 28 YEAR OLD MEMBER WITH THE FOLLOWING DIAGNOSES:

- (1) CHRONIC INSTABILITY LEFT SHOULDER, 71881
- (2) CHRONIC MECHANICAL LOW BACK PAIN, 7242
- (3) CHRONIC DEGENERATIVE ARTHRITIS LEFT KNEE, 71598
- (4) SUBLUXATION SPONTANEOUS MANDIBLE, 8300

ON 15 JANUARY 1997, 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 5099-5003. 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 10 APRIL 1997, AT BETHESDA, MARYLAND, WITH CAPTAIN W. H. FISHER, USNR, AS PRESIDING OFFICER, AND COLONEL E. G. BEINHART, III, USMC, AND CAPTAIN D. M. GRODIN, MC, USN AS PANEL MEMBERS. THE MEMBER'S LEGAL COUNSEL WAS LT B. D. POLLARD, JAGC, USNR.

THE MEMBER APPEARED IN PERSON AT THE FORMAL HEARING, PETITIONING TO BE FOUND UNFIT FOR DUTY WITH A DISABILITY RATING OF 10% UNDER VA CODE 5099-5003 (LEFT SHOULDER), 10% UNDER VA CODE 5003 (LEFT KNEE), AND 10% UNDER VA CODE 5299-5295, FOR A TOTAL ROUNDED DISABILITY RATING OF 30%, WITH PLACEMENT ON THE TDRL. AVAILABLE TO THE HEARING PANEL WERE THE CASE FILE, SERVICE RECORD, HEALTH RECORD, X-RAYS AND IMAGING STUDIES. ADMITTED INTO EVIDENCE AS BOARD EXHIBIT A WERE 27 PAGES OF MEDICAL EVIDENCE INCLUDING A 25 MARCH 1997 ADDENDUM TO THE MEDICAL BOARD REPORT.

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 CONDITIONS WHICH INTERFERE WITH THE ADEQUATE PERFORMANCE OF REQUIRED MILITARY DUTIES. THE RECORD DOCUMENTS THAT THE MEMBER HAS THE FOLLOWING CONDITIONS - CATEGORY I: (1) INSTABILITY LEFT SHOULDER CHRONIC, 71881; (2) DEGENERATIVE ARTHRITIS LEFT KNEE CHRONIC, 71598; CATEGORY III: (3) SUBLUXATION SPONTANEOUS MANDIBLE, 8300; (2) MECHANICAL LOW BACK PAIN, CHRONIC, RECENTLY AGGRAVATED, 7242.

IN FEBRUARY 1996, THE MEMBER WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT IN WHICH HIS LEFT SHOULDER WAS IMPACTED. HE HAS SUFFERED FROM PAIN AND LIMITED MOTION IN THE LEFT DOMINANT SHOULDER SINCE THAT ACCIDENT. CONSERVATIVE MEASURES INCLUDING PHYSICAL THERAPY HAVE NOT PRODUCED SUFFICIENT RELIEF, AND HE IS UNABLE TO PERFORM ALL REQUIRED DUTIES OF RATE INCLUDING LIFTING AND MOVING HEAVY OBJECTS. EXAMINATION OF THE LEFT SHOULDER REVEALED ABDUCTION TO 150 DEGREES WITH PAIN ARRESTING FURTHER MOVEMENT. INTERNAL

Enclosure (1)


[REDACTED]

ROTATION IS EQUAL TO THE NORMAL RIGHT SHOULDER. HE CAN CROSS-CHEST FLEX THE LEFT HAND TO THE RIGHT SHOULDER WITH PAIN. THERE IS MARKED TENDERNESS TO PALPATION BELOW THE LEFT ACROMION. APPREHENSION SIGN AND IMPINGEMENT SIGN ARE BOTH POSITIVE. INTRINSIC MUSCLES ARE 5/5. THOUGH THE MEMBER HAS SENSED THAT THE SHOULDER IS SLIPPING, THERE WAS NO TRUE SUBLUXATION OR DISLOCATION. ON ORTHOPEDIC EXAMINATION, NO INSTABILITY COULD BE ELICITED. THE CONDITION IS UNFITTING FOR DUTY, AND A DISABILITY RATING OF 10% IS ASSIGNED UNDER VA CODE 5099-5003.

SINCE THE FEBRUARY 1996 MOTOR VEHICLE ACCIDENT, THE MEMBER HAS BEEN EXPERIENCING LOW BACK TIGHTNESS AND PAIN WITHOUT RADIATION. AT PHYSICAL THERAPY, PROGRESS WAS NOTED (AS RECORDED IN THE HEALTH RECORD). THE CONDITION WAS AGGRAVATED BY A MORE RECENT AUTOMOBILE ACCIDENT IN FEBRUARY 1997 WITH RESULTING CERVICAL AND LUMBAR SPRAIN AND DIMINISHED RANGE OF MOTION DUE TO SPASM. THESE ACUTE CHANGES ARE NOT CONSIDERED TO BE PERMANENT IN NATURE. IT IS THE OPINION OF THE HEARING PANEL THAT THE MECHANICAL LOW BACK PAIN IS NOT AN UNFITTING CONDITION, AND IS CLASSIFIED AS A CATEGORY III CONDITION.

THE MEMBER HAS CHRONIC DEGENERATIVE ARTHRITIS OF THE LEFT KNEE. AT AGE 10 OR 11 HE FRACTURED THE LEFT FEMUR WHICH REQUIRED TRACTION AND PINNING. THE HEALTH RECORD INDICATES THAT THE LEFT KNEE WAS AFFECTED. HE WAS ACTIVE IN SPORTS INCLUDING COLLEGE BASKETBALL PRIOR TO ACTIVE DUTY SERVICE. THE MEMBER ENTERED RECRUIT TRAINING IN MARCH 1993. IN JUNE 1993 HE BEGAN TO EXPERIENCE PAIN IN THE LEFT KNEE AS THE RESULT OF PLAYING BASKETBALL. IN 1994, A POSSIBLE LEFT MENISCUS TEAR WAS NOTED ON MRI. IN JUNE 1994 ARTHROSCOPY DID NOT REVEAL A TEAR, BUT DID DEMONSTRATE EXTENSIVE CHONDROMALACIA PATELLA. IN SPITE THE DEGENERATIVE CHANGES IN THE KNEE, THE MEMBER CONTINUED TO BE ACTIVE, AND HIS SERVICE RECORD INDICATES THAT HE PLAYED ON THE COMMAND BASKETBALL TEAM UNTIL HIS AUTOMOBILE ACCIDENT IN FEBRUARY 1996. THE LEFT KNEE WAS SOMEHOW INVOLVED IN THE ACCIDENT, AND HE HAS EXPERIENCED A SIGNIFICANT ESCALATION IN THE PAIN IN THE LEFT SINCE THAT TIME. PROLONGED WALKING CAUSES PAIN, AND THE MEMBER STATED THAT HE CAN NOT JOG FURTHER THAN ONE HALF MILE WITHOUT SIGNIFICANT KNEE PAIN. THE CONDITION HAS NOT BEEN RESPONSIVE TO CONSERVATIVE TREATMENT MEASURES. EXAMINATION REVEALED FULL RANGE OF MOTION WITH NO EFFUSION. THERE WAS TENDERNESS TO PALPATION OF THE PATELLAR TENDON IN THE LATERAL AND MEDIAL JOINTLINES. THERE WAS LIGAMENTOUS STABILITY. IN SUMMARY, THE CHRONIC DEGENERATIVE ARTHRITIS APPEARS TO HAVE HAD IT ORIGIN WITH CHILDHOOD TRAUMA AND WITH SUBSEQUENT WEAR AND TEAR WITH ATHLETIC AND OTHER ACTIVITIES THROUGH THE YEARS. THE MEMBER WAS MANAGING WITH THE SYMPTOMS IN THE LEFT KNEE UP UNTIL THE AUTOMOBILE ACCIDENT IN FEBRUARY 1996 WHICH SUFFICIENTLY AGGRAVATED THE LEFT KNEE TO RENDER THE ARTHRITIS CONDITION UNFITTING. A DISABILITY RATING OF 10% IS ASSIGNED UNDER VA CODE 5003, LESS 0% EPTE, FOR A RATING OF 10%.

THE MEMBER EXPERIENCES RECURRENT SPONTANEOUS SUBLUXATION OF THE MANDIBLE WHICH DOES NOT REPRESENT DISLOCATION BECAUSE THERE IS



ALWAYS SPONTANEOUS REDUCTION OF THE MANDIBLE. NO THERAPY IS REQUIRED. THE CONDITION IS NOT UNFITTING FOR DUTY, AND THE CONDITION IS CLASSIFIED AS A CATEGORY III CONDITION.

THE 10% RATING UNDER VA CODE 5099-5003, COMBINES WITH THE 10% RATING UNDER VA CODE 5003, TO YIELD 19%, WHICH ROUNDS TO A TOTAL DISABILITY RATING OF 20%. THE MEMBER IS TO BE SEPARATED WITH SEVERANCE PAY FROM ACTIVE DUTY SERVICE. THE CONDITION IS NOT COMBAT RELATED.