



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

JRE  
Docket No: 2022-96  
19 July 1999

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

Subj: FORMER [REDACTED];  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 w/attachments  
(2) PsychSpec ltr of 27 Mar 98  
(3) DNCPB ltr 5420 Ser:99-24, 11 Mar 99  
(4) 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 his naval record be corrected to show that he was retired by reason of physical disability due to a bipolar affective disorder and a back condition, vice discharged because of a personality disorder.
2. The Board, consisting of Messrs. Adams, Schultz and Pauling, reviewed Petitioner's allegations of error and injustice on 20 May 1999 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, 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. Enclosure (1) was filed in a timely manner.
  - c. Petitioner served on active duty in the Navy from 24 April 1986 to 7 October 1988, when he was released from active duty and transferred to the Temporary Disability Retired List (TDRL) because of psychological factors affecting the intestinal tract, rated at 30%. On 8 October 1991, the Physical Evaluation Board (PEB) reevaluated his condition and determined that Petitioner was fit for duty; consequently, his name was removed from the TDRL. He reenlisted in the Navy on 10 February 1992, and was discharged by reason of a personality disorder on 2 March 1993.

d. In correspondence attached as enclosure (2), a designee of the Specialty Advisor for Psychiatry advised the Board, in effect, that Petitioner suffers from a bipolar disorder that was present in 1990 as well as during his second enlistment. She recommended that his record be corrected to include a diagnosis of bipolar disorder, which "...existed prior to his second period of service, and likely affected his performance during that enlistment."

e. In correspondence attached as enclosure (3), the Board was advised by the Director, Naval Council of Personnel Boards, in effect, that Petitioner appears to have been suffering since 1988 from a fluctuating psychiatric illness with elements suggestive of both affective and difficult to characterize psychotic elements. His medical record suggests a rather extended, atypical prodrome, likely dating back to the 1987. More than one year after Petitioner's discharge in 1993, an unusual deterioration appears to have set in, with questions of organicity and no overt evidence of substance abuse; however, a neuropsychological test on 1 July 1994 concluded that while "aphasic in a confusional state...two collateral informants indicate that this is a psychogenic condition apparently reflecting stress associated with seeing mental health personnel at the VA". In addition, two subsequent VA Medical Center evaluations, on 10 April 1995 and 10 April 1996, suggest Petitioner maintained some sort of employment until October 1995. While inconsistencies would fit an intervening cause, such as a "chemical dependency or Existed Prior to Service (EPTS) factors personality attitudinal factors/mother's history of depression, these are not fully portrayed in Petitioner's record." [sic] In the Director's opinion, given the evidence of relatively sustained functioning on active duty and indications that he was viewed as demonstrating "potential", his disability would have been viewed as slight had he been referred to the PEB in late 1992 or early 1993. Accordingly, the Director recommended correcting Petitioner's record to show that he was discharged by reason of physical disability with a rating of 10%.

The Director concluded that there is insufficient evidence to demonstrate that Petitioner suffered from an unfitting back condition at the time of his discharge in 1993.

#### CONCLUSION:

Upon review and consideration of all the evidence of record and especially in view of the comments contained in enclosures (2) and (3), the Board concludes that Petitioner's administrative discharge by reason of a personality disorder was erroneous. It further concludes that Petitioner was unfit for duty by reason of physical disability because of a bipolar disorder, and should have been discharged in 1993 with entitlement to disability severance pay.

The Board was not persuaded that the mental disorder was ratable in excess of 10%, or that Petitioner had an unfitting back condition.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was discharged from the Navy on 2 March 1993, by reason of physical disability, with entitlement to disability severance pay, because of bipolar disorder, not otherwise specified, rated under VA code 9399-9206 at 10% less a 0% EPTS factor.

b. That the remainder of Petitioner's request for correction of his record be denied.

c. That a copy of this Report of Proceedings 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.

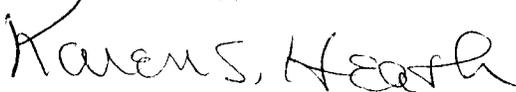
ROBERT D. ZSALMAN  
Recorder

  
JAMES R. EXNICIOS  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER  
Executive Director

Reviewed and approved: AUG 12 1999



KAREN S. HEATH  
Principal Deputy Assistant Secretary of the Navy  
(Manpower and Reserve Affairs)