



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 7931-98

19 October 1999

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 30 September 1999. 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 advisory opinion furnished by the Specialty Advisor for Cardiology dated 3 May 1999, a copy of which is attached, and your response thereto.

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.

The Board did not accept your contentions to the effect that your coronary artery disease was incurred in or aggravated by your active duty for training (ADT) during the 25 March-8 April 1995 period, or that you reported symptoms of heart disease during that period. It concluded that given your multiple risk factors for cardiac disease, you would have been referred to a physician and ultimately hospitalized for further evaluation had you reported symptoms such as shortness of breath, weakness, chest pain, and pain radiating into the shoulder and left arm. In addition, it believes that you would have demanded to be seen by a physician had you experienced those symptoms. The Board concludes that you reported symptoms of back pain, rather than heart disease, and that you were treated appropriately. The fact that a Standard Form 600, Chronological Record of Medical Care, cannot be located does not establish that the appropriate standard of care was not provided to you, and does not support the conclusion that the initial manifestation of new onset angina pectoris occurred during the 25 March-8 April 1995 period. The Board rejected the finding of the

Specialty Advisor for Cardiology, that there was "...a failure to recognize the condition and initiate appropriate therapy" which resulted in a missed opportunity "...to avoid the subsequent myocardial infarction that lead [sic] to an inducible ventricular dysrhythmia and the need for an AICD", because it is unsubstantiated. The advisor's comments concerning how a court or jury might decide the issues in your case were not considered by the Board, as those comments are highly speculative in nature, and outside of the advisor's area of expertise.

The Board rejected your contention to the effect that the determination of officials of the Department of Veterans Affairs (VA) that your heart disease is "service connected" is probative of your entitlement to disability benefits administered by the Department of the Navy. In this regard, the Board noted that the grant of "service connection" was based on the fatuous determination of a VA general surgeon, in response to the question "does the record support a finding that the claimed heart disease was incurred or aggravated during this period of ADT", that "...it is most probable that the symptoms reported during ADT were associated with onset of the coronary arteriosclerotic heart disease during ADT." As indicated above, the Board does not believe you experienced or reported symptoms of heart disease during the period of ADT. The supporting statements from civilian physicians who treated your heart condition are little value, because those physicians have assumed that your statements concerning when you first experienced symptoms of the later diagnosed heart disease are accurate. It was clear to the Board that your arteriosclerosis developed over the course of many years, and the condition did not have its onset during the period of ADT in 1995. The Board noted that your heart disease may have first manifested itself in 1978 or 1979, as there is a civilian medical record in your VA file which indicates that on 1 February 1980, you reported a one year history of chest discomfort and shortness of breath with mild exertion. The results of a treadmill test conducted on 4 February 1980, however, were within normal limits and not diagnostic of ischemia, and elevated ST segments noted on multiple electrocardiograph leads were classified as consistent with a normal variant.

The Board concluded that even if it were to be assumed, for the sake of argument, that you first noted symptoms of heart disease while serving on ADT in 1995, and sought treatment of those symptoms rather than back pain, the fact remains that the condition was preexisting, and there is no basis for concluding that it increased in severity beyond natural progression during a two-week period of ADT performed in 1995. The Board concluded that the VA's grant of service connection for your heart disease is clearly and unmistakably erroneous, and should be reversed.

In view of the foregoing, 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

than his light duty for the rest of the stay in Bahrain. However, having the member report to Reserve duty without medical evaluation after Coronary Artery Bypass surgery is outside of the Navy standard of care.

6. The development of inducible sustained ventricular tachycardia is directly related to the myocardial infarction. The activities that the member participated in post-CABG did not increase or decrease his risk of or aggravate this condition. The implantation of an AICD is an absolute contra-indication to continued deployable military service and the member should have been evaluated for NPQ determination at the earliest Reserve opportunity following the 18 AUG 95 implantation. 11 NOV 95 would seem beyond a reasonable time frame.

7. It is fascinating that the member considers himself cured of coronary disease by the CABG. This represents a clear misunderstanding of the life-long disease process, the 50% need for repeat CABG within 10 years, and a thought process that equates Myocardial Infarction to an injury that has an obvious acute cause and can be permanently fixed. Unfortunately, this is a to often heard statement but is the basis for the member's belief that the episode in Bahrain was the Navy's fault and not the natural evolution of the genetically caused low HDL.

8. In SUMMARY, I concur with the Judge Advocate General of the Navy's determination that his "heart disease was manifested while participating in reserve duties". The failure to recognize the condition and initiate appropriate therapy missed an opportunity to avoid the subsequent myocardial infarction that lead to an inducible ventricular dysrhythmia and the need for an AICD. The inability of the Navy to produce the SF 600 entry from the 01 APR 95 episode of care with [REDACTED] would, in my opinion, be sufficient to sway a jury to the side of the plaintiff. The cause of the coronary artery disease was not Naval service as he spent 50 weeks of the year since 1972 in civilian status with only 5 years on full duty plus reserve time.

Very Respectfully,



K.F. STROSAHL
CAPT, MC, USN