

EXOS:RAB:LPH:gl-531

16 December 1948

From: Retirement Advisory Board. 57
To: Secretary of the Navy.
Subject: Lieutenant Lafayette R. HUBBARD, D, U.S. Naval Reserve,
113392, (Inactive),
Physical fitness - proceedings pertaining to retirement.

1. The Retirement Advisory Board met this date pursuant to the order of the Secretary of the Navy, certified copy of the precept dated 11 April 1947 and the modifications thereof dated 29 July 1947 and 7 July 1948, attached hereto, four members present, to consider the case of the subject-named officer, particularly the record of proceedings of the Naval Medical Survey Review Board dated 11 June 1948, as requested in his letter addressed to the Secretary of the Navy via the Chief of Naval Personnel and referred to this Board.

2. The opinion and recommendation of the Naval Medical Survey Review Board convened at the Navy Department, Washington, D.C., on 11 June 1948, in the case of subject-named officer are as follows:

"The Board is of the opinion that the defect for which the petitioner was medically surveyed, namely, ulcer, duodenum, is not the result of his own misconduct, was incurred in the line of duty, did not exist prior to his appointment as an officer in the U.S. Naval Reserve, but that this condition is usually remediable and does not permanently disqualify the petitioner for useful active duty in the naval service.

"The Board, therefore, recommends that the petitioner be not authorized to appear before a naval retiring board."

The Retirement Advisory Board notes that the Naval Medical Survey Review Board proceedings, now under review, establishes that three (3) medical officers sat in the hearing. The legality of such a Board composed of more than two (2) medical officers, has been challenged in an earlier case and that objection has been referred to the Judge Advocate General of the Navy for ruling. In the absence of objection by the petitioner, Lieutenant HUBBARD, or by his representative in these proceedings, Dr. KINCAID, this Board decided to review the record of the Naval Medical Survey Review Board proceedings at issue, without prejudice based upon the possible ruling that the Board was not legally constituted.

(09,2)

58

EXOS:RAN:LP:High-531

-2-

16 December 1948

Lieutenant Lafayette H. HUBBARD, D, U.S. Naval Reserve, 113392, (Inactive)

3. After a thorough review of the record and careful consideration of the case of Lieutenant Lafayette H. HUBBARD, D, U.S. Naval Reserve, 113392, (Inactive), including the record of proceedings of the Naval Medical Survey Review Board dated 11 June 1948, the appearance and argument in his behalf of his representative, Dr. H. C. KINGMAN, Medical Consultant, Veterans of Foreign Wars of the United States, Defense Building, 1026 Seventeenth Street, N.W., Washington 6, D.C., before this board on 14 December 1948 in the absence of Lieutenant HUBBARD, and the report of special medical examination by the Naval Hospital, St. Albans, New York, dated 19 November 1948, the Retirement Advisory Board recommends that the opinion and recommendation of the Naval Medical Survey Review Board dated 11 June 1948 be disapproved and that Lieutenant Hubbard be authorized to appear before a naval retiring board.

George E. Hanson
Colonel, U.S. Marine Corps
Member

Rendell P. Blake
Captain, Medical Corps, U.S. Navy, RET.
Member

Thomas J. Kennedy
Captain, Medical Corps, U.S. Naval Reserve, RET.
Member

Lewis Phillip Holt
Commander, U.S. Naval Reserve
Member

ATTEST:
Lewis Phillip Holt
Commander, 3, USNR, 19226
RECORDED

29 DEC 1948

APPROVED: JOHN NICHOLAS BROWN
ACTING
Secretary of the Navy

cc:SecNav files, room 4A668, The Pentagon
BuPers (Pers 325)
Naval Retiring Review Board