

RECORD OF PROCEEDINGS OF THE NAVAL MEDICAL SURVEY REVIEW BOARD

Convened at

The Navy Department, Washington, D. C., 11 June 1948

In the case of

Lieutenant LaFayette R. Hubbard, U. S. Naval Reserve

NAVY DEPARTMENT
Office of the Judge Advocate General

2 FEB 1949

Respectfully submitted.

The opinion and recommendation of the Board in this case 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 record was forwarded to this office by the Chief of the Bureau of Medicine and Surgery and the Chief of Naval Personnel with the recommendation that the opinion and recommendation of the Naval Medical Survey Review Board be approved.

The record was referred to the Retirement Advisory Board and after a thorough review of the record and careful consideration of the case, the Retirement Advisory Board recommended that the opinion and recommendation of the Naval Medical Survey Review Board be disapproved, and that Lieutenant LaFayette R. Hubbard, U. S. Naval Reserve, be authorized to appear before a naval retiring board.

In reviewing the record of proceedings of the Naval Medical Survey Review Board in this case, it is noted that three officers of the Medical Corps were present when this board convened, were sworn and signed the record of proceedings; whereas, in conformity with 38 U. S. Code 6931(a), paragraph 8 of the precept convening this board, JAG:I:LHCJ:mhw, signed by the Acting Secretary of the Navy on 8 March 1948, states as follows:

"8. Not more than five members, two of whom shall be officers of the Medical Corps, shall act in any one case."

In view of the above, it is my opinion that the proceedings of the Naval Medical Survey Review Board in this case are not legal; accordingly, it is recommended that the proceedings, opinion, and recommendation thereof be disapproved.

JAG:I:FXD:jj

(Lt. LaFayette R. Hubbard, USNR)

The fact that these proceedings are invalid does not jeopardize the right of the officer concerned to have his case considered by a legally constituted Naval Medical Survey Review Board and it is further recommended that such a board be directed to consider this case and to advise Lieutenant Hubbard of the time and place of meeting in order that, if he so desires, he may appear in person or be represented by counsel before the board.

E. E. Woods

Assistant Judge Advocate General of the Navy

NAVY DEPARTMENT

Office of the Judge Advocate General

2 MAR 1949

The record of proceedings of the Naval Medical Survey Review Board in the case of Lieutenant LaFayette R. Hubbard, U. S. Naval Reserve, was transmitted to the Secretary of the Navy, and by him laid before the President for his approval or disapproval, or orders in the case, with the recommendation that the proceedings, opinion, and recommendation of the board be disapproved.

On 26 FEB 1949, the President disapproved the proceedings, opinion, and recommendation of the Board in this case.

F. X. Driscoll

F. X. DRISCOLL

For Judge Advocate General of the Navy

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