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FOOTBALL; Former Steeler's Family Wins Disability Ruling

By **DAMON HACK**

The final years of Mike Webster's life were spent shuttling between flickers of clarity and binges into dark places, between homelessness, lawsuits and loose strands of stability. Webster, the Hall of Fame center with the Pittsburgh Steelers who retired in 1991, often had to be told by his son Garrett when to eat and when to shower, Webster's mind having become so clouded after 17 seasons at the nexus of conflict on an offensive line.

Seven years after Webster filed a disability claim with the National Football League, his family won a federal appeals court ruling yesterday against the league's pension plan, which had denied Webster an active football disability pension and paid him a lesser benefit.

In a 3-0 decision, the United States Court of Appeals for the Fourth Circuit upheld a 2005 trial court ruling that Webster was totally and permanently disabled as a result of brain injuries from playing professional football. The ruling will result in an award of \$1.5 million to \$2 million to Webster's four children and former wife.

Webster, who won four Super Bowls with the Steelers and also played for the Kansas City Chiefs, died of a heart attack in 2002 at age 50.

"It seemed like we battled everyone -- the N.F.L., even the players' union, which should be the first ones to support our case," Garrett Webster, 22, said yesterday in a telephone interview. "There is a sadness that my dad's not here to celebrate this, but there is also a happiness that other people's voices can be heard, not just N.F.L. players but regular people with brain injuries, construction workers, police officers, firefighters, so when things happen to them, people can recognize the signs of a brain injury."

Bob Fitzsimmons, the lawyer who filed the disability claim on Webster's behalf and served as co-counsel, said: "This was Mike Webster's personal battle that he would not give up on, and he was right. Unfortunately, he didn't live to see the end, but I'm most happy for him and I'm sure he's appreciating the victory."

According to the Bert Bell/Pete Rozelle N.F.L. player retirement plan and supplemental disability plan, which are jointly administered by a pension board of three team executives and three representatives of the N.F.L. Players Association, retired players receive benefits based on years of service and the timing of injuries.

After Webster retired and filed his disability claim for his head injuries, the league gave him a disability plan for players who develop injuries six months after they retire, which falls under a degenerative disability plan.

The Webster estate moved to reclassify his disability as occurring at his retirement, which would place him in a more lucrative active disability plan. Fitzsimmons said the active disability plan paid roughly twice what the degenerative disability plan paid.

"We hired several physicians and they all said Mike had been disabled since March of 1991," Fitzsimmons said. "Despite all of that evidence, the pension board said no. Just because Mike showed up at a few autograph signings, people would say, 'He isn't injured, he was engaged in gainful

employment.' "

The court ruling came at the expense of the six-member N.F.L. pension board, which had voted, 6-0, to keep Webster at the degenerative disability plan.

"All six trustees of the plan saw it differently," an N.F.L. spokesman said of the court ruling. "The judges decided to overrule their unanimous decision."

Gene Upshaw, the executive director of the players association, said if the six-member board was presented with a similar situation with another retired player, it would follow the same course of action it took with Webster.

"These benefits have no face," Upshaw said in a telephone interview. "The trustees must follow what the plan said and it's very seldom that there is disagreement on this. We all feel badly for what happened to Mike Webster, but, obviously there are a lot of players who go through similar circumstances. But you don't just award a benefit to someone going through a tough time. That's not how it works. He wasn't denied benefits. It was the question of when those benefits should have started. We took one position, they took another, and the courts told us their position."

Garrett Webster said he was too young to remember many details from his father's games, but he does recall going into the Steelers' locker room and meeting various players. More fresh are the memories of the years he helped try to get his father on his feet when football was over.

"Normally it's the parent waking up the son to go to school," Garrett Webster said. "With us, it was me waking him up to tell him to take me to school. There were times it did get to be too much for me, but there is no way I would trade what I went through. I loved the moments when we sat in a car and shared a pizza or sat in an apartment with no furniture and watched a movie because we didn't have anything else to do. Those memories made me grow up faster, but I wouldn't trade them for anything."