



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

TRG  
Docket No: 2476-98  
14 April 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 13 April 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.

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 found that you served in Vietnam as a member of Mobile Construction Battalion Three. You claim that your unit came under mortar fire from the enemy and that you received shrapnel wounds. There is nothing in your service record to show that you were wounded in action. A rating decision from the Department of Veterans Affairs (DVA) indicates that there is nothing concerning treatment for wounds in your medical record. The DVA rating decision you submitted states as follows concerning your claim of being wounded in action:

The veteran was part of the Mobile Construction Battalion Three, which arrived in Vietnam in April of 1967. He worked at a rock crusher site (sic) located in the bush somewhat near Phu Bai. He spent his entire tour at the rock crusher site, eventually leaving Vietnam in February, 1968. On December 6, 1967, the rock crusher site was mortared heavily by the Vietnamese. Six Americans were killed and nine were wounded in this attack. The veteran received shrapnel wounds in the thigh and back, but did not report them as there were many more seriously wounded individuals in the camp. The veteran helped clean up the wounded

and the dead bodies that resulted from the attack. ....

... Naval Mobile Construction Battalion Monthly Reports verify that there was a Vietnamese attack at the rock crusher site on December 6, 1967. Although there are no treatment records confirming the veterans' shrapnel wounds, it is presumed that they were incurred during this incident in service.

The DVA has granted you a 50% rating for Post Traumatic Stress Disorder and a rating of 0% for shrapnel wound scars on your back and leg.

Concerning the Purple Heart the regulations in effect at the time stated, in part, as follows:

... Limitations. - Except in the case of a prisoner of war, the wound for which the award is made must have required treatment by a medical officer. ...

In reaching its decision, the Board noted that there is no documentation in the record to show that you were wounded as a result of enemy action or that you were treated by medical personnel. The Board further noted that the battalion operation report apparently did not state that you were wounded in action. Finally, the Board noted that you waited over 30 years to submit a request for the Purple Heart. This delay means that other records which could have substantiated your claim are no longer available. The Board concluded that the available evidence does not support the award of the Purple Heart. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Since there is no indication in your records that you were injured under conditions which would qualify you for the Purple Heart, regulations require that you obtain eyewitness statements. The eyewitness statements can be from the medical personnel who treated you or two other personnel who were present at the time you were injured. Statements should contain the time, place, medical attention received, and verification that the injury was a direct result of enemy action.

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