



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

JRE
Docket No: 3198-01
30 October 2001



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 12 October 2001. 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 noted that in order to qualify for disability retirement from the Armed Forces, a service member must be unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. Although you were treated for a number of conditions during your career, there is no indication in the available records that you were unfit for duty. It noted that you underwent pre-retirement physical examination on 14 January 1976, and were found qualified to perform the duties of your rate at sea and on foreign shores, and for transfer to the Fleet Reserve. The only significant defects noted by the physician who examined you were recurrent low back pain and minimal psoriasis, neither of which was considered disqualifying. You did not disclose any conditions you felt were disqualifying, despite being advised of your right to do so. Although it is possible that due to security concerns, you could have been prohibited from disclosing the circumstances under which a particular condition was incurred, there would not have been any restrictions on your reporting and/or seeking medical care for any condition incurred during your service. The fact that the Department of Veterans Affairs (VA) has awarded you disability ratings is not probative of the existence of error or injustice, because that agency rates conditions it

classifies as "service connected", without regard to the issue of the service member's fitness to perform duty at the time of his separation or retirement. In addition, the VA may assign disability ratings at any time during a veteran's lifetime, as conditions it finds related to military service increase in severity or are first manifested, whereas ratings assigned by the military departments are fixed as of the date of separation or retirement. As you have not demonstrated that you were unfit for duty on 30 January 1976, the Board was unable to recommend any corrective action in your case. Accordingly, 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