



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

JRE  
Docket No: 5913-00  
5 September 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 30 August 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 found that you initially enlisted in the Navy on 7 July 1961, and had several periods of active duty service thereafter. The Veterans Administration (VA) awarded you a 10% rating for a knee condition, effective 29 January 1970, during a break in your service. You reenlisted in the Navy on 29 July 1975, and served until 9 May 1978, when you were discharged pursuant to your request. There is no indication in the available records that your knee condition rendered you unfit for duty at that time. On 23 February 1979, the VA reinstated the 10% rating for the knee condition, and made the rating effective from the day after the date of your discharge. The rating was increased in succeeding years, and several ratings were added for other conditions. You were assigned a combined rating of 60% from 1 September 1994, and 80% from 27 January 1999.

The Board noted that the VA must rate all conditions it classifies as "service connected", without regard to the issue of fitness to perform military duty. In addition, VA ratings may be raised or lowered throughout a veteran's lifetime, and additional ratings may be added. The military departments may assign disability ratings only in those cases where the service

member has been found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability, and ratings are fixed as of the date of separation or permanent retirement. Your service provides an excellent illustration of the differences between the VA and military disability systems. Although you were considered "disabled" by the VA when you reenlisted in 1975, you were found fit for enlistment in the Navy, and you served without significant problems for almost three years despite the knee condition. Upon your discharge, the previous disability rating was reinstated by the VA, which once again determined that you were disabled. As you have not demonstrated that you were unfit for duty when discharged on 9 May 1978, 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