



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

JRE
Docket No: 6558-00
9 April 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 5 April 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. In addition, it considered the comments provided by your counsel.

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 rejected your unsubstantiated contention to the effect that you were discharged by reason of physical disability, vice retired, because you were erroneously advised that retirement funds were not available at that time. In this regard, it noted that the Physical Evaluation Board made preliminary findings on 31 March 1997 that you were unfit for duty because of a knee condition rated at 10%. You accepted those findings on 8 April 1997, conditioned upon your being retained on active duty until 13 June 1997. Your condition was accepted on that date, and you were discharged with entitlement to disability severance pay on 13 June 1997. You were not entitled to be retired by reason of physical disability because your condition was not rated at 30% or higher. It does not appear that you were eligible to apply for retirement under TERA because you were not within body weight standards.

In view of the foregoing, 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