



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

JRE
Docket No: 8062-99
20 December 2000

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 December 2000. 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 the Physical Evaluation Board (PEB) determined that you were unfit for duty by reason of physical disability because of a knee condition, which it rated at 0%. You accepted those findings on 3 March 1999, and you were discharged with entitlement to disability severance pay.

The fact that the Department of Veterans Affairs (VA) rated your knee condition at 30% was not considered probative of material error or injustice in your case. In this regard, the Board noted that the Navy and VA are separate agencies, and that neither is bound by the rating determinations of the other. In addition, it noted that the VA rating was based on the results of a physical examination which was conducted approximately four months after you were discharged from the Marine Corps. The Board was not persuaded that you met the criteria for a 30% rating as of the date of your discharge. 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