



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

JRE
Docket No: 8132-98
27 August 2001



Dear [REDACTED]

This is in reference to your request for further consideration of 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 16 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. It substantially concurred with the rationale of the minority member of the panel of the Board who recommended the denial of your application on 25 April 1991, and the action of the former Deputy Assistant Secretary of the Navy for Manpower of 4 September 1991, who denied your request for corrective action. The additional evidence and arguments submitted by your counsel were not considered probative of error or injustice in your case. In this regard, it concluded that the provisions of 10 U.S. Code 1372, which pertain to advancement on the Retired List, were not misapplied in your case. The Board noted that as you were released from active duty prior to your promotion eligibility date, you were not entitled to be advanced on the retired list to the next higher grade, regardless of the circumstances of the discovery of your disability. As indicated in the advisory opinion rendered during the Board's initial review of your application, you would have been advanced on the Retired List had you been on active duty on 30 April 1990, but as you were released from active duty on 17 February 1990, you were not eligible for advancement.

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