



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

JRE  
Docket No: 4454-01  
26 February 2002

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 14 February 2002. 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 were discharged from the Navy on 15 September 1995, by reason of physical disability. On 29 October 1996, the Department of Veterans Affairs awarded you a combined disability rating of 0% for degenerative joint disease of the spine, at the C3-4, L4-5, and L5-S1 levels, and residuals of removal of a benign lipoma. The rating for the lower spinal condition was increased to 10% effective 1 February 1997.

The Board was not persuaded that you were improperly discharged by reason of physical disability, rather than retired, or that you were misinformed of your rights during your disability evaluation processing. It noted that in order for a service member who has not completed 20 years of active duty service to be retired by reason of physical disability, he must be unfit for duty by reason of a disability, or combination of disabilities, ratable at 30% or higher. As you have not demonstrated that you met the 30% criterion, 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