



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

JRE
Docket No. 10290-02
6 May 2003



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 1 May 2003. 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 of 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 noted that in order to qualify for disability separation or retirement from the Armed Forces, a service member must be unfit to perform the duties of the member's office, grade, rank or rating by reason of physical disability. As the Department of Veterans Affairs has no requirement that the veteran be unfit for military duty in order to receive disability ratings, your receipt of such ratings does not imply that you were unfit for duty when discharged. The Board noted that your migraine headaches were a condition of longstanding that did not substantially affect your ability to perform your duties. The available records do not demonstrate that you were

suffering from significant symptoms of posttraumatic stress disorder or any unfitting mental disorder prior to discharge. The pain and limitation of motion of your jaw were risks associated with the surgery you underwent to correct a preexisting condition, and as such, it is unlikely that either residual of your surgery would have been ratable had you had been considered unfit for duty.

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