



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

TRG  
Docket No: 3305-06  
25 July 2007

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 17 July 2007. 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 record shows that following your second failure of selection to the grade of lieutenant colonel, you were retired with 19 years, 5 months and 16 days of active service under the provisions of a law which has since been repealed. Under the provisions of that law, your retired pay was computed based on 50% of your base pay, which is the same as if you had completed 20 years of active service.

On 9 April 2004 the Department of Veterans Affairs (VA) found that you are presumptively 20% disabled because of residuals of prostrate cancer based on your exposure to Agent Orange while in Vietnam. The payments from the VA were offset against your retired pay.

The law that established Combat Related Special Compensation (CRSC) states, as it applies to your case, that eligibility for CRSC required that you be retired with 20 years of active service. Therefore, your request for entitlement to CRSC was denied by the Navy Council of Review Boards because you did not meet the requirement of 20 years of active service. You then

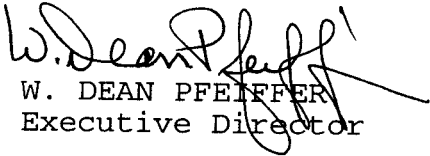
applied to this Board, contending that the action to retire you was involuntary and unjust and you should have been retained to complete 20 years of active service.

Since the law requires 20 years of service, the only way to grant your request is to correct the record to show that you completed 20 years of active duty. In your case, this action would result in the payment of more than six months of pay and allowances. Since you have been treated no differently than many others retired with less than 20 years, the Board could not find an error or injustice 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