



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

JRE
Docket No. 00057-07
20 July 2007

[REDACTED]

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 19 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.

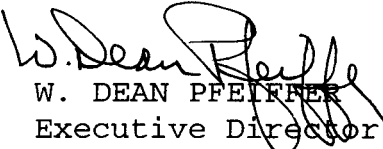
The Board rejected your erroneous contention to the effect that you are entitled to disability retirement pay retroactive to 1973 because you were never contacted by the Department of the Navy after you were released from active duty and transferred to the Temporary Disability Retired List (TDRL) in 1973. In this regard, the Board noted that you underwent TDRL periodic physical examinations on 24 October 1974 and 9 December 1975, as directed by Department of the Navy officials, and your case was reevaluated by the Physical Evaluation Board (PEB) on 26 January 1976. As you know, the approved findings of the PEB provided for the reduction of your disability rating to 20%, removal of your name from the TDRL, and discharge with entitlement to disability severance pay. You were so discharged on 18 March 1976.

The issue of your entitlement to disability retired pay for the 1973-1976 period is a matter within the purview of the Defense Finance and Accounting Service. You should note, however, that during the period when your name was on the TDRL, military retired pay entitlements were offset dollar for dollar against disability compensation received from the Veterans Administration (VA). It is likely that you did not receive disability retired pay because you elected to receive VA disability compensation, which may have been greater than your retired pay entitlement.

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