



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

JRE
Docket No. 07957-07
1 July 2008

[REDACTED]

[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 26 June 2008. 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 Marine Corps by reason of physical disability on 13 June 1989, with entitlement to disability severance pay. On 5 January 1990, the Department of Veterans Affairs (VA) awarded you a combined disability rating of 20% under VA code 5022.

The Board did not accept your contention to the effect that you were retired by reason of physical disability vice discharged. In this regard, the Board noted that you did not qualify for

disability retirement because your condition was not rated at or above 30% disabling. Your belief that you repaid the severance pay and are therefore entitled to retired pay from the Marine Corps is erroneous. It appears, however, that you should be entitled to monthly disability payments from the VA, which will be withheld by the VA until such time as the amount withheld equals the full amount of your disability severance pay.

In view of the foregoing, your application has been denied. 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