



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

JRE
Docket No. 02433-08
12 December 2008



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 11 December 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 originally enlisted in the Navy on 19 March 1971. On 10 October 1979, a medical board gave you a diagnosis of psychophysiological gastrointestinal disorder, and referred you to the Central Physical Evaluation Board (CPEB).

The CPEB found you fit for duty in December 1979. You underwent a pre-separation physical examination on 23 February 1980, and were found qualified for separation notwithstanding your history of gastrointestinal conditions and migraine headaches. You were honorably discharged on 25 February 1980, pursuant to your request for an early discharge in order to attend college. You were assigned a reenlistment code of RE-R1 to indicate that you were fully qualified and recommended for reenlistment at that time.

A Veterans Administration (VA) rating decision dated 13 May 1981 indicates that you were examined at a VA facility on 31 December 1980. You presented evidence showing that a pre-pyloric benign gastric ulcer was noted during an examination conducted in May 1980. The VA examiner diagnosed a psychogenic pain disorder and a small hiatal hernia with a moderate amount of gastroesophageal reflux. He also found evidence consistent with old peptic ulcer disease. He did not identify an acute ulcer, but found evidence suggestive of some component of ongoing peptic ulcer disease. The VA granted you a disability rating of 10% for a hiatal hernia with psychophysiological gastrointestinal disorder, history of peptic ulcer, history of cholecystectomy; and a separate 10% rating for migraine headaches. Those ratings were effective from the day following your discharge from the Navy. The rating for the headache condition was increased to 30% effective 25 August 1982.

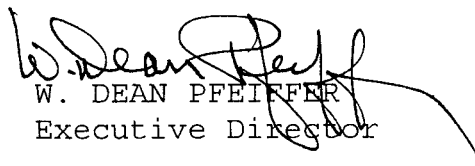
In order to be retired by reason of physical disability, a service member who has not completed sufficient service to qualify for length of service retirement must be unfit to reasonably perform his or her duties because of a physical disability rated at 30% or higher. You have not demonstrated that you met either of those criteria as of 25 February 1980. As indicated above, you were found fit for duty in December 1979, and physically qualified for separation on 23 February 1980. It appears that you and you could have remained on active duty and reenlisted had you wanted to do so. The Board did not accept your unsubstantiated contention to the effect that you were denied the opportunity to reenlist because you had five "active ulcers". It noted that a former Sailor may be found unqualified for reenlistment after a break in service if there is a change in the Sailor's physical condition and/or applicable procurement physical standards

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