



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

JRE
Docket No. 12224-08
9 July 2009



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 25 June 2009. 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 evaluated by the Central Physical Evaluation Board on 12 December 1986 and found unfit for duty due to the residuals of a foot injury that were rated at 10% disabling. You accepted those findings on 19 December 1986, and you were discharged with entitlement to disability severance pay on 6 March 1987. The Veterans Administration (VA) awarded you a disability rating of 10% effective 7 October 1987. The rating was reduced to 0% effective 1 May 1991, and increased to 10% effective 19 April 2000, and to 30% effective 21 August 2000.

The fact that you were awarded a combined VA disability rating of 30% effective 21 August 2000 is not probative of the existence of error or injustice in your naval record, because that rating was based on an assessment of the severity of your disabilities more than ten years after you were discharged from the Navy. Although the VA may raise or lower a veteran's disability ratings at any time, ratings assigned by the military departments are fixed as of the date of separation or permanent retirement. As you have not demonstrated that you were entitled to a rating in excess of 10% from the Department of the Navy on 6 March 1987, the Board was unable to recommend corrective action 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