



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

JRE  
Docket No. 12280-08  
22 December 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 19 November 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 released from active duty on 1 September 1992 and transferred to the Temporary Disability Retired List (TDRL) with a 30% rating for posttraumatic stress disorder. On 7 November 1995, the Physical Evaluation Board (PEB) reevaluated your case and determined that your mental disorder had improved and was then ratable at 10%. It recommended that you be discharged with entitlement to disability severance pay. You were notified of the findings and recommendation of the PEB by letter dated 13 November 1995. Enclosed in that letter were an information sheet which listed the options available to you, and an election of options form.

The findings of the PEB were approved, and you were discharged with entitlement to severance pay. The Department of Veterans Affairs (VA) awarded you a 10% rating for posttraumatic stress disorder effective 1 April 1996, and increased the rating to 50% from 22 December 2000, and to 70% from 25 November 2003.

In the absence of evidence which demonstrates that your condition was ratable at or above 30% disabling on the date of your discharge from the Navy, the Board was unable to recommend any corrective action in your case. The increases in your VA disability rating that occurred during the seven years following your discharge are not probative of the existence of error or injustice in your naval record because although the VA may adjust 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. 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 PREIFFER  
Executive Director