



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

JRE

Docket No. 00745-09

9 July 2009

[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. You requested that your "completed years of service be changed from 2 years to 3 years", so that you will be entitled to a disability rating of 80% rather than 70%.

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 enlisted in the Navy Reserve on 23 December 1964, and served on active duty from 10 February 1966 to 30 September 1967, when you were transferred to the Temporary Disability Retire List (TDRL) with a combined disability rating of 80% for residuals of wounds you sustained in combat in Vietnam. Your DD Form 214 indicates that you completed three years of service for "the percentage multiple". The Veterans

Administration awarded you a 60% rating effective 1 October 1967. You were permanently retired by reason of physical disability effective 1 August 1971, with a combined disability rating of 70%.

The Board found that your final disability rating was based on an assessment of the level of impairment caused by your disabilities, rather than on the number of years of creditable service you completed. As your condition was assessed as 70% disabling, you were entitled to retired pay equal to 70% of your basic pay. The percentage rating was not based on the number of years of service you were credited with completing. Accordingly, and as you have not demonstrated that your disabilities should have been rated at more than 70% disabling, 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