



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

JRE
Docket No. 03762-09
15 June 2009

[REDACTED]

Dear [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 11 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 a medical board on 4 April 2006 and given a diagnosis of status/post first and second degree burns of your hands. The medical board recommended that your case be considered by the Physical Evaluation Board (PEB). The PEB found you fit for duty on 28 September 2006, and you accepted that finding on 16 October 2006. On 23 April 2007, you were discharged for the convenience of the government by reason of a "condition not a disability".

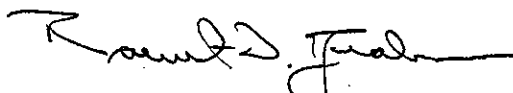
On 5 January 2008, the Department of Veterans Affairs (VA) awarded you disability ratings of 50% for obstructive sleep

apnea, 10% and for residuals of electrical shock left hand and forearm, and 30% for the right arm, separate 10% ratings for lumbosacral strain and a specific phobia, and 0% for two other conditions. The ratings were effective from 24 April 2007.

The Board was not persuaded that you were unfit for duty by reason of physical disability on the date of your discharge, as your symptoms were minimal and did not preclude you from reasonably performing your duties. In addition, you accepted the finding of fitness that was made by the PEB. The fact that the VA awarded you substantial disability ratings effective the day following your discharge is not probative of the existence of error or injustice in your naval record because those ratings were assigned without regard to the issue of your fitness for military duty. 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,



FOR W. DEAN PFEIFFER
Executive Director