



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

JRE

Docket No. 05505-09

19 October 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. You requested that your record be corrected to show that you have retained foreign bodies (shrapnel) as a result of wounds you sustained in Vietnam. You contend that the Department of Veterans Affairs (VA) refuses to rate your wounds higher than 10% because it fails to recognize the retained foreign bodies.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 October 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 sustained fragment wound of your lower abdominal area on 4 February 1966, for which you received the Purple Heart. A medical record entry dated 6 February 1966 indicates that x-rays showed a small 2 millimeter fragment in the wound, and that there was no indication for an attempt to

remove the fragment. You underwent a pre-separation physical examination on 4 April 1969 and were found qualified for release from active. Thereafter, the Department of Veterans Affairs (VA) awarded you disability ratings for posttraumatic stress disorder (currently 100%), diabetes mellitus (20%), and status/post shrapnel wounds with retained fragment (10%).

As the VA has acknowledged that there is a retained fragment at the site of your wound, and your naval records suggests that the fragment noted on 6 February 1966 was not removed, there is no basis for correcting your naval health record to explicitly state that there was a retained foreign body present at the site of your wound on the date of your discharge. In addition, the Board concluded that the addition of such an entry would not accord your effective relief, as it would not cause VA rating officials to increase the rating currently assigned for status/post shrapnel wound. 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