



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

JRE

Docket No. 05589-09

8 January 2010

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 January 2010. 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.

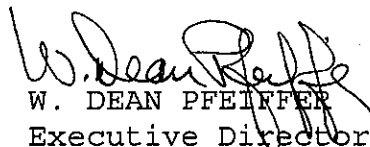
The Board found that you underwent a pre-separation physical examination on 5 June 1995 and disclosed a history of numerous medical conditions and complaints, each of which was evaluated and found not disqualifying by the physician who conducted the examination and found you fit for separation. You were honorably discharged on 1 July 1995, in grade E-3, by reason of non-retention on active duty, having completed six years of service. Effective 2 July 1995, the Department of Veterans Affairs (VA) awarded you a disability rating of 20% for a lower back condition, and added a rating of 20% for diabetes mellitus,

effective 28 July 1995, the date on which that condition was diagnosed.

The Board concluded that your receipt of disability ratings from the VA shortly after you were discharged from the Navy is not probative of the existence of error or injustice in your naval record, because the VA assigned those ratings without regard to the issue of your fitness to reasonably perform military duty on the date of your separation. As you have not demonstrated that you were unfit for duty on 1 July 1995 because of the back condition and/or the diabetes mellitus, and that you should have received a combined disability rating from the Department of the Navy of 30% or higher, 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