



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

JRE  
Docket No. 06476-09  
29 September 2010



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 16 September 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. In this regard, the Board found that you were discharged by reason of physical disability on 30 January 2009, with a disability rating of 10% and entitlement to severance pay pursuant to your acceptance of the findings made by the Physical Evaluation Board in your case. On 11 March 2009, the Department of Veterans Affairs (VA) awarded you a disability rating of 50%, notwithstanding your failure to appear for a scheduled VA examination.

The fact that the VA assigned a disability rating that is higher than the rating assigned by the Department of the Navy is insufficient to demonstrate the existence of error or injustice in your naval record, especially since the basis for the VA rating is unclear. In the absence of evidence which establishes that you were entitled to

a rating of 30% or higher from the Department of the Navy, the Board was unable to recommend any 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