



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

JRE  
Docket No. 05382-10  
6 October 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 30 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.

You served on active duty in the Navy from 13 March 1974 to 10 March 1978, when you were honorably released from active duty. The Department of Veterans Affairs (VA) awarded you a disability rating of 0% for bronchitis effective 18 July 1991; 10% for a scar associated with a right lower lobe segmentectomy associated with bronchitis effective 7 March 2005; and 10% for costochondritis associated with the scar. At various times between 18 March 1991 and 1 September 2006 the rating for bronchitis ranged between 0 and 100%, with the most recent rating of record being 10% effective 1 September 2006.

The Board noted that the effective date of SECNAVINST 1850.4E is 30 April 2002, and that its provisions are inapplicable to your case. The Board concluded that the possession of one or more conditions that is normally cause for referral to the disability evaluation

system does not mandate that disability evaluation be initiated, or, in those cases where the member is referred for disability evaluation, require that the member be found unfit for duty by reason of physical disability. As you have not demonstrated that, at the time of your release from active duty, you were unfit to reasonably perform your duties due to the effects of bronchitis, sinusitis, pneumonia, bronchiecstasis, and/or any other condition, the Board was unable to recommend that your record be corrected to show that you were separated or retired by reason of physical disability. 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