



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

JRE
Docket No. 06361-10
18 April 2011

[REDACTED]

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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 14 April 2011. 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 Marine Corps from 14 October 1976 to 15 November 1979, when you were discharged by reason of physical disability because of an unfitting shoulder condition. The Veterans Administration (VA) rated that condition at 10% from 16 September 1985 to 4 February 2000, when the rating was increased to 30%. On 3 March 2010, the VA granted your request for service connection for depression thought to be secondary to your shoulder condition, and assigned a separate rating of 70% for that disorder.

Although the VA is permitted to add and amend disability ratings at any time during a veteran's post-service lifetime, military disability determinations are fixed as of the date of the service member's separation or permanent retirement. As you have not

demonstrated that your shoulder condition was ratable above 10% disabling as of 15 November 1979, or that you suffered from a ratable mental disorder at that time, the Board was unable to recommend any corrective action. 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