



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

JRE

Docket No. 07874-10

13 May 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 12 May 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 Navy from 4 June 1975 to 30 January 1982, when you were discharged by reason of physical disability with entitlement to severance pay for a condition of your right knee that was rated at 10% disabling. Effective the following day, the Department of Veterans Affairs (VA) awarded you a 10% rating for the knee condition. The VA added a 10% rating for a shoulder condition in 1991, and increased the rating for the knee condition to 20% in 2001.

Although the VA may adjust a veteran's disability at any time during his post-service lifetime, ratings assigned by the military departments are fixed as of the date of separation or permanent retirement. As you have not demonstrated that you were entitled to

a disability rating from the Department of the Navy of 30% or higher as of 30 January 1982, there is no basis for granting your request for correction of your record to show that you were 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