



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

JRE
Docket No: 5329-00
23 April 2001



Dear [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 5 April 2001. 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 25 June 1999. You reported that your health was "Good" at that time, and you disclosed a history of back pain, alcoholism, use of illegal substances, and frequent trouble sleeping. The examining physician noted signs of depression, and started you on an antidepressant medication. He found you fit for separation, and recommended that you seek follow-up care for the depressive symptoms from the Department of Veterans Affairs (VA). You were honorably released from active duty on 10 July 1999, at the expiration of your active duty service commitment. On 4 October 1999, the Department of Veterans Affairs (VA) awarded you a 50% rating for major depression, 10% for tinnitus, and 0% for three other conditions. All ratings were effective from 11 July 1999.

The fact that you received a substantial disability rating from the VA is not probative of the existence of material error or injustice in your naval record. In this regard, the Board noted that in order for a service member to qualify for disability retirement, he must be found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability

ratable at or above 30% disabling. The VA assigns disability ratings without regard to the issue of fitness for military duty. It must rate all conditions it classifies as "service connected", i.e., incurred in, aggravated by, or traceable to a period of military service. As noted above, you considered your health to be good, and you were found fit for separation. In addition, there is no indication in the available records that your performance of duty was other than satisfactory prior to your discharge. In the absence of evidence which demonstrates that you were unfit by reason of physical disability, 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