



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

JRE
Docket No: 2115-01
26 December 2001

[REDACTED]

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 29 November 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 rejected your contention to the effect that you are entitled to disability separation or retirement because you suffer from a disqualifying condition listed in the Manual of the Medical Department (MANMED), article 15-41 (16). In this regard, it noted the cited article of the MANMED pertains to conditions which disqualify prospective service members from enlistment or appointment under procurement physical standards. In order to qualify for disability separation or retirement, a member of the armed forces must exceed retention physical standards, i.e., suffer from a condition that renders him unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. Although you suffered from asthma prior to your release from active duty, you continued to perform your duties in an outstanding manner until your release from active duty. The fact that, several years later, you were found not physically qualified for service in the Naval Reserve is insufficient to demonstrate that you were unfit for duty at the time of your release from active duty. 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