



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

JRE
Docket No: 4339-00
25 July 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 17 July 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.

Although you might have contracted hepatitis C prior to your release from active duty in 1974, there is no indication in the available records that the you had symptoms of that condition at that time, or that you were disabled by it. As such, the issue of your entitlement to a disability rating for that condition is within the purview of the Department of Veterans Affairs, rather than the Department of the Navy. In this regard, the Board noted that the military departments may assign ratings only to those conditions which render a service member unfit for duty, and ratings are fixed as of the date of separation or permanent retirement. The Department of Veterans Affairs, however, must rate all conditions it classifies as "service connected", i.e., incurred in or aggravated by military service, without regard to the issue of fitness for military service. It may assign ratings at any time during a veteran's life time, and may raise or lower ratings as the severity of a rated condition changes. Accordingly, you should consider reopening your claim with the VA, and requesting that you be granted service connection for the hepatitis.

In view of the foregoing, 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