



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

JRE

Docket No: 4809-00

21 February 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 8 February 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 noted that the Department of Veterans Affairs (VA) awards disability benefits to veterans who suffer from conditions it classifies as "service connected", that is, incurred in, aggravated by, or otherwise traceable to a period of military service. Such awards are made without regard to the issue of fitness for military duty. In addition, disability ratings may be raised or lowered throughout a veteran's lifetime as the severity of a rated condition changes. In order to be entitled to disability benefits administered by the Department of the Navy, there must be a finding that the service member is unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. After a finding of unfitness has been made, and a rating assigned, the rating is fixed as of the date of separation or permanent retirement. In your case, the Board noted that although you suffered from a number of medical conditions during your naval service, there is no indication that you were unfit for duty at the time of your transfer to the Fleet Reserve. It noted that the VA ratings you received on 25 June 1997 and thereafter reflect the deterioration of your condition which occurred following your release from active duty. The VA ratings were given retroactive effect under laws and regulations applicable solely to the VA. The ratings do not

demonstrate that you were unfit for duty prior to your release from active duty. In addition to the foregoing, the Board noted that as you continued to perform your duties until commencing processing for non-disability retirement, you would have been presumed fit for duty under the provisions of SECNAV Instruction 1850.4C, paragraph 2056 had your case been referred to the Naval Disability Evaluation System.

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