



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

JRE
Docket No: 7613-01
17 December 2002

[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 12 December 2002. 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. In addition, the Board considered the advisory opinion furnished by the Director, Naval Council of Personnel Boards dated 26 August 2002, a copy of which is attached, and the comments of your counsel.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. 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

Enclosure



DEPARTMENT OF THE NAVY
NAVAL COUNCIL OF PERSONNEL BOARDS
WASHINGTON NAVY YARD
720 KENNON STREET SE RM 309
WASHINGTON, DC 20374-5023

IN REPLY REFER TO

5220
Ser: 02-13
26 Aug 02

From: Director, Naval Council of Personnel Boards
To: Executive Director, Board for Corrections of Naval
Records

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE
OF FORMER [REDACTED]

Ref: (a) Your ltr JRE:jdh Docket No: 7613-01 of 23 Jul 02
(b) SECNAVINST 1850.4E

1. This letter responds to reference (a) which requested comments and a recommendation regarding Petitioner's request for correction of her naval records. The Petitioner was discharged from the U.S. Navy without any disability rating. The Petitioner contends her medical condition warranted a disability rating and should have been the basis of her discharge. The Veterans Administration (VA) has granted the Petitioner a disability rating of 100%.

2. The Petitioner's case history, contained in reference (a), was thoroughly reviewed in accordance with reference (b) and is returned. The following comments are provided:

a. The Petitioner was originally separated from the Navy at her own request as a result of financial hardship. The Petitioner and her husband had enlisted together and felt as though they were misinformed regarding monetary compensation.

b. During the Petitioner's short naval service she complained of knee pain, bilateral tendonitis and an inability to cope with naval lifestyle. The available active duty health record suggests the combination of physical therapy and limited shipboard duty had produced sufficient improvement that no medical board was contemplated. Prior to her discharge she was offered the opportunity to remain on active duty to continue physical therapy. She refused the continued physical therapy.

c. On 15 September 2000, a routine Separation Physical Exam was performed prior to her discharge. Her condition appears to have been considered relatively benign and not disqualifying.

AUG 28 2002

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d. The VA awarded the Petitioner a disability rating of 100%. This disability rating is contrary to the results of the 15 September 2000 separation physical examination. The VA's decision was based on a December 2000 VA examination that documented largely subjective complaints of ankle and foot pain. The rating awarded by the VA is roughly equivalent to that for bilateral above the knee leg amputations. The VA rating suggests a largely unexplained deterioration in the Petitioner's condition between the 15 September 2000 exam and the VA's exam in December of 2000.

3. In summary, the evidence is inadequate to warrant granting the Petitioner any relief despite her reported subjective distress.

[REDACTED]