



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

JRE
Docket No. 03328-03
8 September 2003



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 September 2003. 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.

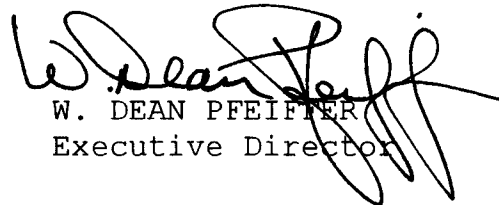
The Board found that you served on active duty in the Navy from 29 June 1998 to 23 August 2002, when you were transferred to the Naval Reserve. You were assigned a reenlistment code of RE-R1, to indicate that you were eligible and recommended for reenlistment. Following your release from active duty, the Department of Veterans Affairs (VA) awarded you a combined disability rating of 40% for lumbar strain, status/post head injury with headaches, and residuals of a left ankle injury.

The Board concluded that your receipt of a VA disability rating does not demonstrate that your release from active duty in the Navy was erroneous. In this regard, the Board noted that the

Navy may assign disability ratings only in those cases where the service member has been found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability, whereas the VA must rate all conditions it classifies as "service connected". The VA determination is made without regard to the issue of fitness for military duty. As you were found fit for duty immediately prior to your release from active duty in the Navy, and as you have not persuaded the Board that you were, in fact, unfit for duty, it 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