



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

JRE

Docket No. 00693-06

2 April 2007



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 March 2007. 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.

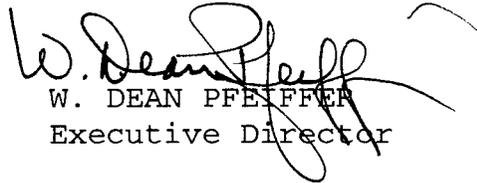
The Board found that you were discharged from the Navy on 1 May 2002 by reason of physical disability because of a disorder of your lumbosacral spine that was rated at 10% disabling. Following your discharge, the Department of Veterans Affairs (VA) awarded you a 10% rating for that condition, and added ratings for headaches, hemorrhoids, hypertension, and bilateral knee conditions, for a combined rating of 50%.

The Board concluded that your receipt of VA disability ratings for multiple conditions that were not rated by the PEB is not

probative of the existence of error or injustice in your naval record. In this regard, the Board noted that the VA rates all conditions it classifies as "service connected", i.e., incurred in or aggravated by military service. In addition, the VA assigns ratings without regard to the issue of fitness for military duty. The military departments, unlike the VA, are permitted to rate only those conditions that render a service member unfit for duty at the time of separation or retirement. As you have not demonstrated that you any of the additional conditions rated by the VA rendered you unfit for military duty at the time of your discharge, the Board 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