



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

JRE
Docket No. 00317-07
4 February 2008

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 10 January 2008. 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 on 20 September 2006, the Physical Evaluation Board (PEB) made a preliminary finding that you were fit for duty notwithstanding your cervicalgia, lumbago and spondylolisthesis. In making that finding, the PEB considered the report of a medical board dated 23 June 2006 and a non-medical assessment (NMA) letter from your command dated 28 June 2006. The NMA indicates that you were working in your military specialty and had passed the most recent physical readiness test. Your commanding officer described you as a definite asset


to your unit, and stated that you had earned the respect of your peers and superiors. He highly recommended that you be retained in the naval service. You accepted the findings of the PEB on 5 October 2006, and your disability evaluation was terminated n 11 October 20006.

The Board was not persuaded that the PEB erred when it found you fit for duty. Although you suffered from significant spinal pathology and back and neck pain, you continued to perform your duties in an outstanding manner. The fact that you lost entitlement to Navy Reserve disability benefits upon the termination of your disability proceedings, as required by law and regulation, and your contention that you are unable to work, were carefully considered but considered insufficient to warrant a change in the fitness determination.

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