



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

JRE
Docket No. 05707-07
18 April 2008

[REDACTED]

[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 April 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.

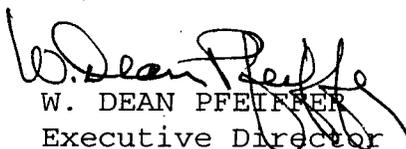
The Board found that you served on active duty in the Navy from 28 October 1966 to 14 May 1971, when you were discharged by reason of unfitness-frequent incidents of a discreditable nature with military authorities, which included four instances of nonjudicial punishment, a conviction by special court-martial, and eight periods of time lost. Although you had been recommended for separation with an undesirable discharge, the Chief of Naval Personnel directed that you be issued a general discharge because of a defect he noted in the separation package. On 23 February 1972, the Veterans Administration (VA) awarded you service connection and a disability rating of 30%

for a fungal infection of your feet, and 20% for a duodenal deformity secondary to scarring from "previous ulcer disease".

The Board concluded that your receipt of substantial disability ratings from the VA does not demonstrate that your discharge from the Navy is erroneous or unjust. The VA assigns disability ratings without regard to the issue of the veteran's fitness for ~~military service at the time of separation.~~ The military departments may assign disability ratings only in those cases where the service member has been found unfit for duty. There is no indication in your record that you were unfit for duty by reason of physical disability at the time of your discharge. In addition, even if you had been unfit for duty, you would not have been entitled to disability separation or retirement because the proposed administrative discharge for frequent involvement of a discreditable nature with military authorities would have precluded disability evaluation processing. 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