



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

JRE
Docket No. 05877-07
17 June 2008



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 June 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 Marine Corps from 6 March 1967 to 7 August 1970, and in the Navy from 13 March 1975 to 23 March 1975 and from 16 October 1981 to 24 February 1986, when you were discharged by reason of physical disability due to a lower back condition that was rated at 20% disabling. The Veterans Administration (VA) awarded you disability ratings of 0% from 25 February 1986, 10% from 11 March 1986, 60% from 1 July 1992, 80% from 27 December 1994 and 90% from 8 October 1996. It appears that you did not receive a compensable rating for posttraumatic stress disorder until 10992, or for your back condition until 1994. The former

condition apparently stems from your service in the Marine Corps during your initial enlistment.

The available records do not demonstrate that you suffered from hemorrhoids, hypertension, or posttraumatic stress disorder on 24 February 1986, or that your lower back condition was ratable at or above 30% disabling on that date. The increase in severity of your back condition which occurred during the years following your discharge is a matter under the purview of the VA, rather than the Department of the Navy, as the VA may adjust and add disability ratings throughout a veteran's lifetime, whereas rating determinations made by the military departments are fixed as of the date of the service member's separation or retirement.

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