



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

JRE  
Docket No. 06095-07  
26 June 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 26 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 Navy from 5 April 2001 to 4 April 2006, when you were released from active duty and transferred to the Navy Reserve. You were assigned a reentry code of RE-1, to indicate that you were eligible and recommended for reenlistment. You were described in your final evaluation report as an above average Sailor with unlimited potential, who consistently put one hundred percent effort into every assigned task and always produced superior results.

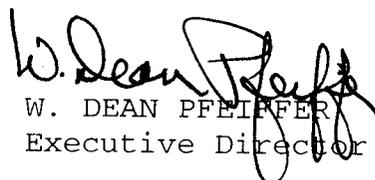
Effective 5 April 2006, the Department of Veterans Affairs (VA) awarded you a 30% disability rating for "adjustment and bipolar disorder with anxiety and depression [sic]", 10% ratings for bilateral knee conditions and tinnitus, and 0% for migraine headaches, for a combined rating of 50%.

Your receipt of disability ratings from the VA is probative of the existence of error or injustice in your naval record, as the VA assigns disability ratings without regard to the issue of a service member's fitness for military duty. The military departments, however, are permitted to assign disability ratings only in those cases where a service member is found unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability, and they may rate only those conditions that render the service member unfit for duty, or contribute to an unfitting condition and warrant a separate rating. As noted above, you were eligible and recommended for reenlistment at the time of your release from active duty. There is no indication in the available records that you were unfit to reasonably perform your assigned duties. The Board did not accept your unsubstantiated contention that you were not permitted to reenlist "for medical reasons". It noted that DOD Instruction 1332.38, Physical Disability Evaluation, paragraph E2.1.25 provides, in effect, that an adjustment disorder is not considered to be a disability under the laws administered by the Department of Defense.

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