



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

JRE
Docket No. 07447-07
1 July 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 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 were permanently retired by reason of physical disability on 1 January 1983 due to renal insufficiency and related condition, which were rated at 30% disabling under Veterans Administration (VA) code 7509-7500. Effective 17 November 1979, the VA awarded you disability ratings of 30% for renal insufficiency with hydronephrosis, chronic pyelonephritis, urethral stricture and hypertension with heart block, and 0% for gout. The combined rating was increased to 70% effective 21 July 1993. On 12 December 2005, the VA added a separate rating of 60% for hypertension with heart block.

The Board found that although the VA may adjust disability ratings throughout a veteran's lifetime to account for changes in the severity of rated conditions that occur over time, rating determinations made by the military departments are fixed as of the date of a service member's separation or permanent retirement, in the absence of evidence of material error or injustice. As you have not demonstrated that your kidney condition should have been rated above 30% disabling when you were permanently retired in 1983, or that you were entitled to a separate rating for hypertension, there is no basis for the Board to direct 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