



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

JRE  
Docket No. 10631-07  
28 January 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 17 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. In addition, it considered the contentions of your counsel, the Disabled American Veterans.

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.

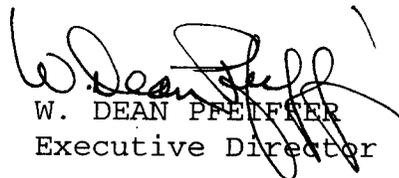
The Board found that you served in the Navy from 8 November 1967 to 21 August 1971 and 23 June 1976 to 1 October 1987, when you were discharged by reason of physical disability because of a minor headache condition that was rated at 10% disabling. Following your discharge, the Department of Veterans Affairs (VA) awarded you separate ratings of 10% for arthritis of the cervical spine and radiculopathy of the right upper extremity,

and 0% for hearing loss. The VA ultimately increased your combined disability rating to 60%, in 2006.

The Board found that although the VA may rate any condition that was incurred in or aggravated by a veteran's military service, and adjust disability ratings throughout a veteran's lifetime, the military departments are permitted to rate only those conditions that render a service member unfit for military duty as of the date of separation or permanent retirement. As you have not demonstrated that you suffered from any unfitting conditions in 1987 other than the headaches, or that you were entitled to a combined disability rating of 30% or higher at that time, the Board was unable to recommend 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