



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

JRE
Docket No. 10898-07
12 September 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 4 September 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. In this regard, the Board found that disability retirement is generally reserved for those service members whose careers are terminated prior to their attaining eligibility for length of service retirement. Although you were treated for a number of medical condition during your naval service, you were examined and found physically qualified for retirement on 26 October 1998. The fact that the Department of Veterans Affairs subsequently awarded you separate disability ratings of 10% for six of those conditions is not probative of

the existence of material error or injustice in your naval record, because you were awarded those ratings without regard to the issue of your fitness for military duty at the time of your release from active duty.

In the absence of evidence which demonstrates that you were unfit by reason of physical disability to reasonably perform the duties of your office at the time of your voluntary transfer to the retired list, 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 PFEFFER
Executive Director