



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

JRE
Docket No. 10963-07
22 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 18 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.

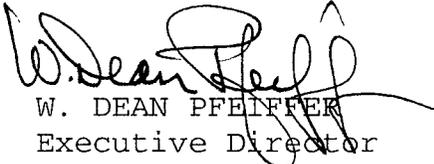
The Board found that you were released from active duty on 2 November 1987, and transferred to the Temporary Disability Retired List (TDRL), with a combined rating of 40% for residuals of injuries you had sustained in a motor vehicle accident. On 9 September 1991, after reviewing a report of a periodic physical examination, the Physical Evaluation Board (PEB) retained you name on the TDRL. When it reviewed your case on 9 May 1994, the PEB had two options: to separate you from the Marine Corps without severance pay or entitlement to other disability benefits administered by the Department of the Navy due to your failure to undergo a final periodic physical examination, or to

evaluate your fitness for duty based on the evidence of record and assign a disability rating. The PEB chose the second option, and assigned you a final rating of 20%, which entitled you to disability severance pay.

The Board was not persuaded that your disability was ratable at or above 30% disabling when final action was taken in your case in 1994. 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