



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

JRE
Docket No. 00916-08
12 January 2009



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 8 January 2009. 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. The Board was unable to obtain your naval health record from its custodian, the Department of Veterans Affairs (VA).

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.

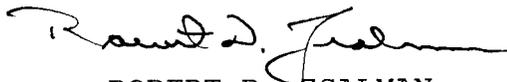
The Board found that you were discharged from the Navy under honorable conditions on 8 October 1980 at the expiration of your enlistment. You underwent a Department of Veterans Affairs (VA) examination during March 1981, and no psychiatric condition was diagnosed at that time. On 21 November 2007, the VA granted your request for service connection for major depression, and awarded you a disability rating of 30% for that condition effective 29 May 2002. That action was based on the VA's

determination that you had experienced symptoms of a depressive disorder while serving on active duty.

In order to be separated or retired by reason of physical disability, a service member must be found unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability at the time of his separation or retirement. Although you may have had symptoms of a depressive disorder while serving on active duty, there is no indication in the available records that you were unfit for duty because of the effects a depressive disorder, or that your performance deficits were caused by or otherwise related to such a disorder. The Board concluded you failed to demonstrate that you should have been retired by reason of physical disability with a fully honorable characterization of service. 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,



ROBERT D. ZSALMAN
Acting Executive Director