



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

JRE
Docket No. 01110-08
12 December 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 4 December 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, the Board considered an advisory opinion dated 29 May 2008, by medical officers designated by the Special Leader for Psychiatry, Bureau of Medicine and Surgery.

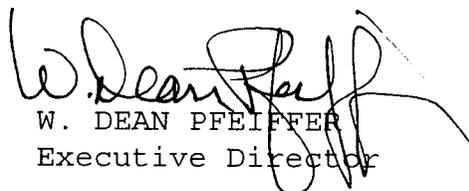
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board substantially concurred with the comments contained in the advisory opinion. The Board was not persuaded that you were unfit for duty by reason of physical disability on 28 July 2007, when you were discharged upon the expiration of your enlistment, as extended. The Department of Veterans Affairs (VA) rating decision dated 18 December 2007, which granted you a combined disability rating of 90% effective 29 July 2007, is not probative of the existence of

error or injustice in your naval record for the reasons indicated in the advisory opinion, as well as the fact that the VA assigned that rating without regard to the issue of your fitness for military service on the date of your discharge.

In view of the foregoing, 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

Enclosure