



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

TRG  
Docket No: 2187-08  
18 April 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 15 April 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 record shows that you served in the Navy Reserve from 3 August 1942 until you were honorably discharged on 20 November 1945. On 15 July 1947 you reenlisted in the Navy Reserve and then served in a satisfactory manner for about 13 years. In the early 1960's you were advanced to chief petty officer.

On 17 June 1961 you were referred to a Veterans Administration Hospital by your private doctor for evaluation because you were depressed, nervous and irritable. The evaluation stated, in part, as follows:

... After several days and much evaluation, the situation seemed to be progressing in a downhill fashion rather rapidly and symptoms of depression began to develop in the patient. His sleeping habits began to disintegrate and his appetite, interest level and general mood became quite markedly depressed. Therefore, on 7-4-61, it was decided to give the patient a course of electroconvulsive treatments [ECT's]. On Wednesday, 7-5-61, the patient received his first ECT and following that he received a course of 10 ECTs carrying him through 7-26-61. There was not noted to be too much response to the ECTs for the first

five treatments, however, following that the patient began to improve markedly. His depressive symptomatology decreased and his hostile and paranoid thinking about his wife also became minimal. His tolerance of her was noted to improve. On 7-12-61 the patient's [medications] were discontinued. ... (Some minor changes for clarity)

You were discharged from the hospital on 28 July 1961 with medication and a recommendation to see your personal physician in two weeks. The discharge diagnoses were depressive reaction, adult situational reaction and passive aggressive personality.

A Report of Medical Examination dated 11 March 1962, conducted to determine if you should be retained in the Navy, noted diagnoses of depressive reaction and passive aggressive personality, which were considered to be disqualifying. On 20 June 1962 the Bureau of Medicine and Surgery (BUMED) found you not physically qualified for service. The Physical Evaluation Board subsequently found you not physically qualified and the Bureau of Naval Personnel (BUPERS) directed your discharge. Your anniversary year ended on 30 June 1962. In that anniversary year you were credited with 48 of the 50 retirement points needed for a qualifying year of service. You were honorably discharged on 5 March 1963. At that time, you were credited with 17 years, 3 months and 8 days of qualifying service for reserve retirement.

In May 1965, BUMED reconsidered and denied your request for further service. On 16 January 1967, BUPERS informed you that you were not eligible for retired pay at age 60 because you did not have 20 qualifying years of service.

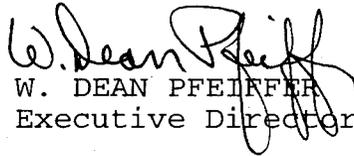
In reaching its decision in the current review of your case, the Board found that the report from the VA and the medical examination of 11 March 1962 were sufficient for BUMED and PEB to find that you were not physically qualified. Regulations in effect both before and for many years after the BUMED and PEB findings generally required discharge when an individual was found not physically qualified for further service. Since you have not shown that you were discharged in error, and as you have been treated no differently than many others in your situation, the Board could not find an error of injustice 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



DEPARTMENT OF THE NAVY

OFFICE OF THE ASSISTANT SECRETARY

(MANPOWER AND RESERVE AFFAIRS)

1000 NAVY PENTAGON

WASHINGTON DC 20350-1000

May 5, 2008

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This correspondence is in response to your request that I reconsider the decision by the Board for Correction of Naval Records (BCNR) to deny your request for military retirement status. In the letter, you also expressed concern about the fairness of the review conducted by BCNR. As a result, I directed that a new BCNR Panel be appointed with members unfamiliar with your case to consider your petition and provide a recommendation to me for review and final disposition. The result of the Panel's effort and my review are outlined below.

The BCNR is empowered to act for the Secretary of the Navy and, when deemed appropriate, correct military records. The new Panel carefully reviewed the record and supplemental information you provided, and unanimously determined that the evidence was insufficient to justify changing your military record to reflect retirement from the Navy. Despite this recommendation, I too personally reviewed the record and concur with the Panel's recommendation that relief is not warranted.

In taking this action, the BCNR resolved the matter on behalf of the Secretary. Unless you can provide new and material evidence to the Board, further reconsideration within the Department of the Navy is not appropriate. Since the BCNR decision constitutes final agency action, you may seek judicial relief in a court of competent jurisdiction.

I know this is not the decision that you had hoped to receive and in no way diminishes your 17 plus years of honorable and faithful service to our nation. I wish you good health and happiness in the years ahead.

Sincerely,

A handwritten signature in cursive script that reads "Robert T. Cali".

Robert T. Cali

Assistant General Counsel

(Manpower and Reserve Affairs)