



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

JRE

Docket No. 02748-08  
25 November 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 20 November 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.

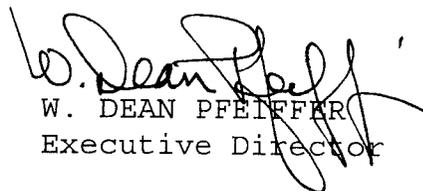
The Board found that your attorney appeared before a hearing panel of the Physical Evaluation Board (PEB) on 13 June 1996, and requested that you be assigned separate disability ratings of 10% under Department of Veterans Affairs (VA) codes 5299-5276 and 5276-5003 for bilateral flat feet and a painful toe. The rationale of the hearing panel indicates that you were assigned 10% ratings under VA code 5299-5271 and 5276-5003. The 5271 code appears to be a typographical error, as it applies to limitation of motion of an ankle, whereas the correct code of 5279 applies to a toe condition. The President, PEB, published the findings of the hearing panel on 1 July 1996, and corrected

them to show that you were assigned ratings under codes 5299-5279 and 5276-5003. You were notified of those findings on 9 July 1996. Your PEB file contains an undated letter to then Senator Mosely-Braun in which you acknowledged that you had not rebutted the findings of the PEB, and requested that your separation be expedited.

In view of the foregoing, and as you have not demonstrated that you should have received a combined disability rating of 30% or higher, your request for correction of your record to show that you were retired by reason of physical disability 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