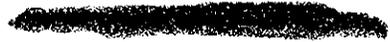




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No. 03527-08
20 July 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 9 July 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. As the Board was unable to obtain a complete copy of your disability evaluation proceedings, it relied on documents contained in your Department of Veterans Affairs (VA) file.

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.

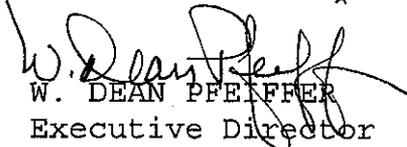
The Board found that you enlisted in the Navy on 24 July 2001. You were released from active duty on 5 December 2002 and transferred to the Temporary Disability Retired List (TDRL) due to a seizure disorder. You underwent a periodic physical examination on 13 January 2006 and reported that you had not had any seizures since December 2002. On 9 February 2006, the Physical Evaluation Board (PEB) determined that your condition

remained unfitting, and that it was ratable at 20%. The PEB apparently reconsidered and confirmed that finding on or about 25 April 2006. You were honorably discharged by reason of physical disability on 12 May 2006 in accordance with the approved findings of the PEB. In a rating decision dated 19 December 2006 the VA granted your request for service connection for the seizure disorder and assigned a disability rating of 10% to that condition.

In the absence of evidence which demonstrates that your disability was ratable at or above 30% disabling as of 12 May 2006, the Board was unable to recommend any corrective action in your case. It noted that the issue of your entitlement to a higher disability rating for any increase in severity of your condition which may have occurred after you were discharged is a matter within the purview of the VA rather than the Department of the Navy. 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