



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

JRE  
Docket No. 04877-08  
11 May 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 30 April 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.

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 connection, the Board substantially concurred with the rationale of the hearing panel of the Physical Evaluation Board (PEB) that considered your case on 17 March 2005, a copy of which is enclosed.

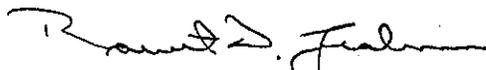
The Board did not accept your contention to the effect that your condition was misdiagnosed as a right medial meniscus tear and, consequently, that your discharge was based on a condition that did not exist. The Board concluded that you were found unfit for duty because of the disabling residual effects of meniscus tears you sustained prior to your entry on active duty. It is clear that the PEB was aware of the state of your knee joint, as it noted that an MRI of your knee revealed changes consistent with a previous meniscectomy versus a tear, and that arthroscopic inspection of the knee revealed the presence of a truncated

medial meniscus. The Board noted that when evaluating a service member's fitness for duty, the manifestations of a condition reported upon by a medical board are more significant the precise diagnostic label applied to the condition.

The Board carefully considered your contention to the effect that your knee condition resolved as a result of the surgery you underwent on 8 August 2006, and that you are now fit for military duty, but found those factors insufficient to demonstrate that you were denied appropriate medical care while on active duty in the Navy, or that you were discharged prematurely or erroneously. Accordingly, and as the Board was not persuaded that it would be in the interest of justice to recommend corrective action in your case, 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