



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

JRE
Docket No. 05634-08
3 August 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.

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.

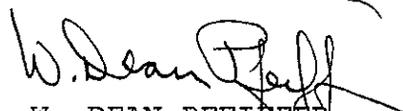
The Board found that you enlisted in the Navy on 29 December 1998. On 12 September 2000, a medical board gave you a diagnosis of bipolar affective disorder, which did not exist prior to entry (DNEPTE), and was not service aggravated (NSA). Your case was referred to the Physical Evaluation Board (PEB) which determined that your condition had not been incurred in or aggravated by your naval service. That finding was apparently based in part on your belated disclosure of a pre-service history of psychiatric counseling. You were discharged by reason of physical disability on 21 December 2000, without entitlement

to disability benefits administered by the Department of the Navy, in accordance with the approved findings of the PEB. On 9 November 2001, the Department of Veterans Affairs (VA) awarded you a 10% rating for bipolar disorder.

Although the medical board and the VA concluded that your condition did not exist prior to your enlistment, the Board was not persuaded that the PEB erred in determining that your condition was not ratable. The Board noted that it is the responsibility of the PEB, rather than the medical board, to determine if an unfitting condition is ratable. In addition, the Board is not bound by VA rating determinations. 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