



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

JRE
Docket No. 05851-08
5 June 2009

[REDACTED]

Dear [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 29 May 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.

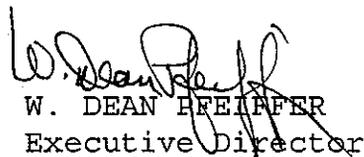
The Board found that you served on active duty in the Navy from 30 September 1976 to 26 September 1980, when you were released from active duty and transferred to the Navy Reserve upon the completion of your active duty service commitment. Effective 30 January 1998, the Department of Veterans Affairs (VA) awarded you a disability rating of 30% for residuals of a fractured left mandible.

The Board could not find any indication in the available records that you were unfit for duty by reason of physical disability on

26 September 1980. The fact that the VA awarded you a substantial disability rating more than seventeen years later is not probative of the existence or error or injustice in your naval record because that award was made without regard to the issue of your fitness for military duty as the date of your release from active duty. 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