



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

JRE
Docket No. 06753-08
23 March 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 12 March 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 were released from active duty and transferred to the Temporary Disability Retired List (TDRL) on 1 July 2004 due to obsessive compulsive disorder and social phobia, which were rated together at 30% disabling. On 28 March 2008 the Physical Evaluation Board (PEB) made preliminary findings that you remained unfit for duty and that your conditions were ratable at 10% disabling. As you did not

respond to the notification of those findings, the PEB presumed that you accepted them. Your case was finalized by the PEB on 10 June 2008.

As your condition was rated at 10% disabling as of 10 June 2008, you were not entitled to remain on the TDRL. Accordingly, and as you have not demonstrated that your disability should have been rated at 30% or higher at that time, 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