



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

JRE

Docket No. 00582-08
16 October 2008



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 October 2008. 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.

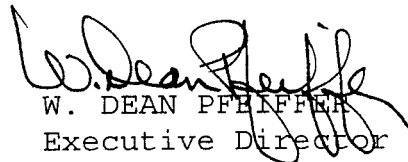
The Board found that you underwent a pre-separation physical examination on 14 July 1976 and were found qualified for discharge. You completed a Report of Medical History (Standard Form 93) on that date in which you stated that your health was good, and failed to disclose a history of injuries sustained in a motor vehicle accident that occurred on 1 May 1976. You were discharged under honorable conditions by reason of a personality disorder on 15 July 1976. The Veterans Administration (VA) awarded you a 0% rating for a forehead scar effective 13 August 1979. On 15 December 2006, the VA awarded you separate disability ratings of 10% for three orthopedic conditions and a mental disorder considered to be related to motor vehicle

accident that occurred on 1 May 1976. Your combined VA ratings were 10% from 25 October 1999, 20% from 21 January 2000, 30% from 7 April 2005, and 40% from 1 December 2005. .

Your receipt of substantial disability ratings from the VA for multiple conditions that VA rating officials determined were related to your service in the Navy is not probative of the existence of error or injustice in your naval record, because those ratings were assigned without regard to the issue of your fitness for military duty on the date of your discharge. In addition, the ratings were increased over time to reflect changes in your condition that occurred long after you were discharged. In the absence of evidence which demonstrates that you were unfit to reasonably perform the duties of your rate by reason of physical disability on 15 July 1976, there is no basis for granting your request for disability separation or retirement. Accordingly, and as you have not demonstrated that it would be in the interest of justice to upgrade the characterization of your service to fully honorable, 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