



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

JRE  
Docket No. 03988-08  
7 August 2008

[REDACTED]

[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 7 August 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.

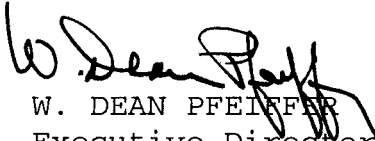
The Board found that you were released from active duty on 19 December 2002, and transferred to the Temporary Disability Retired List (TDRL) the following day, with a disability rating of 40% for hepatitis C. The Department of Veterans Affairs (VA) awarded you a combined disability rating of 30% effective 20 December 2002, for lumbar strain (20%), tinnitus (10%), conductive hearing loss (0%), and hepatitis C (0%). On 17 May 2007, the Physical Evaluation Board (PEB) made preliminary findings that you remained unfit for duty because of the effects

of the hepatitis C, which was ratable at 10%. A copy of those findings was received at your address of record on 30 May 2007. As you did not respond to the notification of preliminary findings, your acceptance of the findings was presumed. Your case was finalized by the President, PEB, on 22 June 2007, and you were discharged with entitlement to disability severance pay.

In the absence of evidence which demonstrates that you were fit for duty on the date of your discharge, or that you were entitled to a disability rating of 30% or higher, the Board was unable to recommend any corrective action in your case. 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