



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

JRE  
Docket No. 07310-08  
7 October 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 17 September 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.

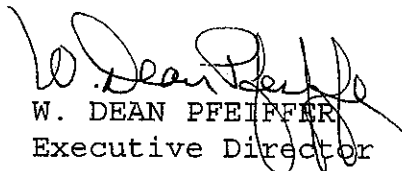
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you served on active duty in the Navy from 14 March 1988 to 10 March 1995. Although you suffered from a number of medical conditions during your period of service, you underwent extensive medical evaluation prior to separation. It was ultimately determined that a medical board was not necessary in your case, and that you were physically qualified for separation. On 13 November 1995, the Department of Veterans Affairs (VA) awarded you disability ratings of 10% for labyrinthitis with mild tinnitus and occasional vertigo, and 0% for three other conditions.

The fact that the VA awarded you a combined rating of 10% for four conditions effective the day following your release from active duty is not probative of the existence of error or injustice in your naval record. The VA assigned those ratings without regard to the issue of your fitness to perform military duty. The military departments, unlike the VA, may assign disability ratings only in those cases where the service member has been found unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability. As you have not demonstrated that you were unfit for duty on 10 March 1995, the Board was unable to recommend 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