



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

Docket No. 03548-09  
7 June 2010

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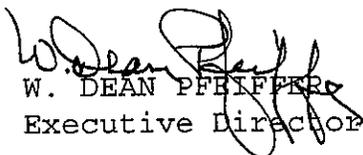
This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 June 2010. 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. In this regard, the Board found that the disability rating of 100% which you ultimately received from the Department of Veterans Affairs (VA) effective the day following your discharge from the Navy in 1996 was based on changes in disability rating criteria that became effective approximately six months after you were discharged. In addition, it appears that the 100% rating may have been based on a misinterpretation of the rating schedule by VA rating officials. In this regard, the Board noted that the available records do not show that you met the criteria for the 100% rating, i.e., that the daily use of systemic (oral or parenteral) high-dose corticosteroids was required, as you were prescribed low-dose inhaled anti-inflammatory medications. In any event, as the revised rating criteria were not in effect on the date of your discharge from the Navy, there is no basis for the Board to increase the 10% rating you received at that time. 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