



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

URE
Docket No. 04429-09
5 March 2010



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 25 February 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 Department of Veterans Affairs (VA) rating officials who determined that your injuries were incurred in the line of duty misread the Findings of the Physical Evaluation Board Proceedings dated 12 May 2008, and erroneously awarded you service connection for the residuals of those injuries. As indicated in items 2 and 3 under the heading "DIAGNOSES AND RATINGS", the PEB found that your injuries were the result of your own intentional misconduct or willful neglect, and therefore not in the line of duty. The findings listed in items 11a-d under the heading "ADDITIONAL FINDINGS" pertain only to the diagnosis of major depression, and not to the residual of your injuries as erroneously found by the VA. In order to limit your potential indebtedness resulting from the erroneous grant

of service connection, you should notify pertinent VA officials of the error as soon as possible.

In view of the foregoing, and as you have not demonstrated that you were injured in the line of duty, 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