



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

JRE  
Docket No. 05790-09  
20 July 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 16 July 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.

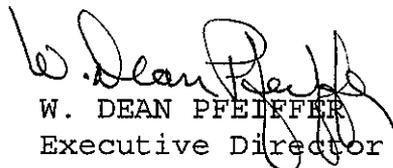
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board found that although you may have been suffering from the early stages of multiple sclerosis (MS) when released from active duty on 1 March 2002, a diagnosis of MS is not unfitting per se. You were examined prior to your release and considered qualified for separation, and there is no indication in the available records that you were unable to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability at that time. It appears that you would have continued to perform your duties in an outstanding manner if you had been selected for promotion to the rank of lieutenant commander and retained on active duty.

The fact that the Department of Veterans Affairs (VA) granted your request for service connection for MS effective 14 August 2007, and assigned a rating of 30%, which is the minimum rating authorized for that condition, is not probative of the existence of error or injustice in your naval record. The VA granted your request on a presumptive basis because your condition was diagnosed within eight years of your release from active duty. The VA rating action does not imply that you were unfit for duty in 2002 or entitle you to a disability rating from the Navy.

In view of the foregoing, 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