



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

JRE

Docket No. 08809-09

8 January 2010

[REDACTED]

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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 7 January 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.

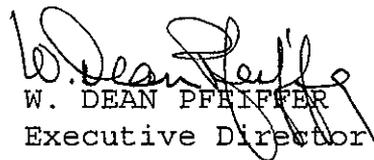
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, the Board did not accept your unsubstantiated contention to the effect that you were improperly referred to the Physical Evaluation Board (PEB) after being found fit for duty by a medical board, and that the PEB found you unfit for duty based on the fraudulently altered findings of a medical board.

The Board found that you were placed on limited duty on four separate occasions during your career. It noted that referral to

the PEB generally occurs when a third period of limited duty is recommended by a medical board. In any case, the mechanism through which your case was referred to the PEB is immaterial. The PEB found you unfit for duty due to a condition rated at 10% disabling. After being advised of those findings you waived your right to demand a hearing, and did not request that you be continued on active duty in a permanent limited duty status until such time as you qualified for transfer to the Fleet Reserve. The Board presumed that as a senior chief hospitalman, you were aware of your rights in connection with the disability evaluation process, and that you made an informed and voluntary decision to accept the findings and recommendation of the PEB. 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