



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

JRE
Docket No. 09447-09
7 June 2010

[REDACTED]

[REDACTED]

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.

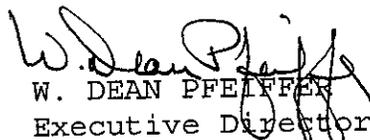
You served in the Navy from 12 July to 1 September 1972, when you were discharged by reason of erroneous enlistment. Your Navy personnel record does not show the specific basis of your discharge. The Board was unable to obtain a complete copy of your Navy health record from its custodian, the Department of Veterans Affairs (VA). The few records the VA did provide suggest that you were discharged because of spondylolosis, a spinal disorder that was thought to be related to a back injury that you had sustained about two years before you enlisted. You claimed that the preexisting condition became symptomatic while you were on active duty as a result of lifting a sea bag. The VA granted you a disability rating of 10% for

radiculopathy, right lower extremity, effective 1 July 2004. The VA granted you a combined rating of 60% for that condition and related disorders effective 27 July 2009, and determined that you were unemployable and entitled to compensation at the 100% level.

The fact that the VA granted you a disability rating approximately twenty years after you were discharged from the Navy is not probative of the existence of error or injustice in your naval record. In the absence of evidence which demonstrates that you were unfit for duty due to a condition that was incurred in or aggravated by your naval service, the Board was unable to recommend any 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