



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

JRE  
Docket No. 10209-09  
26 October 2009

[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 23 October 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 were wounded in action in Vietnam, you were considered fit for duty on 23 October 1969, when you were released from active duty and transferred to the Marine Corps Reserve. The fact that the Veterans Administration (VA) awarded you disability ratings of 20% for residuals of a chest wound, and 10% for residuals of an abdominal wound is not probative of the existence of error or injustice in your record because the VA assigned those ratings without regard to the issue of your fitness for military duty as of 23 October 1969. Your initial VA rating decision dated 2 April 1970 suggests that there was minimal impairment associated with the residuals of your wounds. You complained of upper gastrointestinal discomfort following meals. Your wound scars were examined and found to be "non-

tender, non-fixed and non-depressed", and no hernias, masses or evidence of fluid were found.

In view of the foregoing, and as you have not demonstrated that you were unfit to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability at the time of your release from active duty, the Board was unable to recommend 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