



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

JRE

Docket No. 13238-09

8 January 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 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 contention to the effect that you were improperly denied the opportunity to complete twenty or more years of active service and qualify for transfer to the Fleet Reserve.

The Board found that on 6 November 2008 you accepted the findings made by the Physical Evaluation Board (PEB) in your case, and waived your right to demand a formal hearing and to request retention on active duty in a permanent limited duty status. You were honorably discharged on 2 February 2009 in

accordance with the approved findings of the PEB, with entitlement to severance pay in the amount of \$128,056.20. The Board concluded that your receipt of substantial disability ratings from the Department of Veterans Affairs (VA) for conditions not rated by the PEB is not probative of the existence of error or injustice in your naval record, because the VA awarded those ratings without regard to the issue of your fitness for military duty vis-à-vis any of those conditions.

In the absence of credible evidence which establishes that you were unfit to reasonably perform the duties of your rank by reason of physical disability due to any of the additional conditions rated by the VA, 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