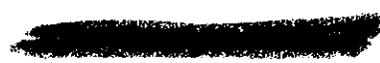




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No. 03314-10
28 May 2010



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 28 May 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.

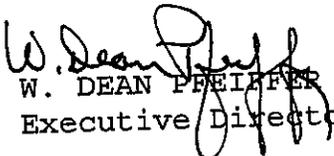
You entered on active duty in the Marine Corps on 10 April 1968. You underwent a pre-separation physical examination on 28 May 1969 and were found qualified for separation notwithstanding your history of being wounded in combat. You were released from active duty for the convenience of the government on 5 June 1969 under an "early out" program for Vietnam returnees. On 27 October 1970, the Veterans Administration (VA) awarded you a combined disability rating of 20% for residuals of shell fragment wounds (SFW) and 10% for anxiety reaction. On 23 July 1971, the combined rating for residuals of the SFW was increased to 60% effective 6 June 1969, and confirmed the 10% rating for anxiety reaction. The retroactive increase in the

rating for the SFW was based in large part on the results of an examination conducted more than two years after you were released from active duty.

The Board concluded that your receipt of substantial disability ratings from the VA is insufficient to demonstrate the existence of error or injustice in your naval record because the VA assigned those ratings without regard to the issue of your fitness for military service on the date of your release from active duty. As you have not demonstrated that you were unfit for duty on 5 June 1969, or that your release from active duty on that date was improper, 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