



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

JRE  
Docket No. 04772-10  
27 April 2011

[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 21 April 2011. 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.

On 29 March 2006, the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty by reason of physical disability due to neurocardiogenic syncope, which it rated at 10% disabling under Department of Veterans Affairs (VA) code 7099-8299-8210. On 1 April 2006, you accepted those findings and waived your right to demand a hearing before the PEB. You were discharged with entitlement to severance pay on 4 May 2006. The VA rated your condition at 0% effective 5 May 2006, and 20% effective 16 February 2007. The effective date of the latter rating was later changed to 5 May 2006. The VA increased the rating to 30% effective 1 August 2008.

The Board did not accept your unsubstantiated contention to the effect that you should have received a disability rating of 30% or

higher for syncope, or that you were otherwise entitled to retirement by reason of physical disability, vice separation with entitlement to severance pay. The fact that the VA increased the rating for the syncope to 30% several years after you were discharged from the Navy was not considered probative of the existence of error or injustice in your record. In this regard, the Board noted that although the VA may amend a veteran's disability ratings at any time to account for changes in rated conditions that may occur after a veteran's release from active duty, disability ratings assigned by the military departments are fixed as of the date of separation.

In view of the foregoing, 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