



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

JRE
Docket No. 05797-10
18 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 7 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.

You enlisted in the Navy on 20 February 2001. In an evaluation report which covers the period 1 March-17 June 2005 you received an individual trait average of 3.5, a rating of "Must Promote", a recommendation for retention, and very favorable narrative comments. You were honorably discharged for the convenience of the government on 17 June 2005 by reason of a condition not a disability; unfortunately, the condition which resulted in your being discharged is not shown in the available records. Effective 18 June 2005, the Department of Veterans Affairs (VA) awarded you a combined disability rating of 40% for a low back condition, left wrist strain, and a C-section scar. A rating of 30% was added for posttraumatic stress disorder effective 28 September 2007.

The Board concluded that your receipt of substantial disability ratings from the VA is not probative of 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 duty on the date of your discharge. In addition, it noted that although the VA may add ratings at any time during a veteran's post-service lifetime, as it did in your case when it rated the posttraumatic stress disorder, military disability determinations are fixed as of the date of separation or permanent retirement. As you have not demonstrated that you were unfit to reasonably perform your duties on 17 June 2005, the Board was unable to recommend favorable 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